

John Henry's

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LAW

OF THE

STATUTE

OF

NEW-YORK,

Passed by the Legislature of said State, at their Eleventh Session.



NEW-YORK:

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M,DCC,LXXXVIII.

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Passed by the Legislature at their Eleventh Session.

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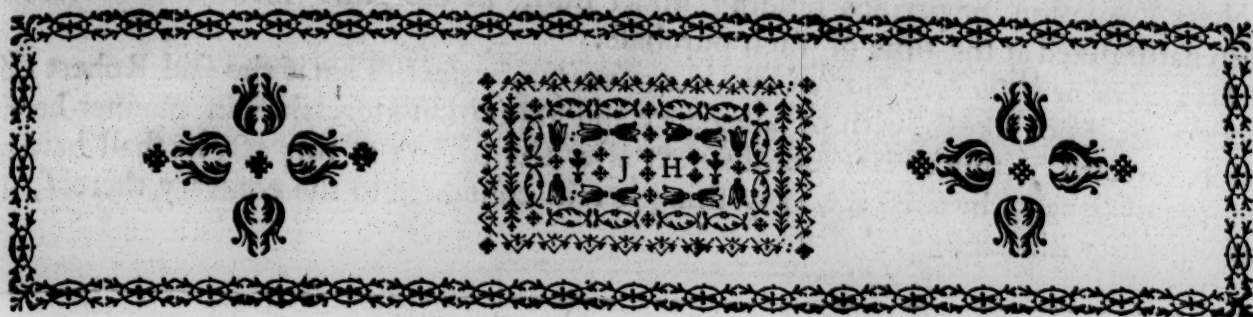
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L A W S

O F T H E

S T A T E O F N E W - Y O R K ;

Passed at the First Meeting of the Eleventh Session of the Legislature
of the said State.



C H A P. I.

An ACT to Naturalize Robert Edmeston. Passed the 6th of February, 1788.

WHEREAS Robert Edmeston hath by his petition to the Legislature, prayed that an act of naturalization might be passed in his behalf; therefore **BE it enacted** by the people of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same; That the said Robert Edmeston shall be and he is hereby naturalized, and shall from and after having taken and subscribed in any court of record within this State, the oath of allegiance to this State, and abjured and renounced all allegiance and subjection to all and every foreign King, Prince, Potentate and State, in all matters ecclesiastical as well as civil, be deemed a citizen of this State, to all intents, constructions and purposes whatsoever; and that the court in which the said Robert Edmeston shall be admitted to take such oath, shall cause an entry thereof to be made in the minutes of the said court, and shall give a certificate to the said Robert Edmeston, purporting that he hath been admitted to such oath in the said court, in pursuance of this act; and that he shall upon taking of such oath pay to the judges of such court six-shillings, and to the clerk thereof three shillings.

Preamble.

Robert Edmeston
naturalised on ta-
king the oath,

And whereas the said Robert Edmeston hath by his said petition represented, that he hath unadvisedly made purchase of lands and tenements in this State, and hath prayed relief in the premises; Therefore

Recital.

II. *Be it further enacted by the authority aforesaid,* That any lands, tenements or hereditaments, lying within this State, and purchased previous to the passing of this act, by the said Robert Edmeston, shall not on account of such purchase being previous to the passing of this act, escheat to the People of this State, but shall vest in the said

Robert Edme-
ston's purchase, &c.
made legal,

B

Robert

Robert Edmeston or persons holding under him, in the same manner as if he had been naturalized at the time of such purchase.

On condition of his taking the oath in 12 months.

III. *And be it further enacted by the authority aforesaid*, That if the said Robert Edmeston shall not take the oath of allegiance and abjuration aforesaid, in manner herein before directed, within twelve months next after the passing of this act, he shall have no manner of benefit by this act, any thing herein contained to the contrary thereof, in any wise notwithstanding.

C H A P. II.

An ACT to prevent delays of proceedings at the General Sessions of the Peace, and abuses in suing out Writs of Certiorari. Passed the 6th of February, 1788.

Writs of Certiorari to be delivered in open court.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same; That all writs of Certiorari for the removal of any indictment or presentment, or any judgment or order out of any court of General Sessions of the Peace, shall be delivered at the Sessions of the Peace in open court.

Writs of Certiorari how to be granted in term time.

Parties prosecuting writs of Certiorari to be bound to appear, &c. by recognizance.

How such writs are to be granted in vacations.

II. *And be it further enacted by the authority aforesaid*, That in term time no writ of Certiorari whatsoever, at the prosecution of any party indicted or presented be hereafter granted, awarded, or directed out of the Supreme Court to remove any indictment or presentment of or for any trespass, riot, forcible entry, assault and battery, fraud, nuisance, contempt or misdemeanor whatsoever, before trial had from before any justices in their courts of General Sessions of the Peace, unless such Certiorari shall be granted or awarded upon motion of counsel by rule of court, made for the granting thereof, before the justice or justices of the Supreme Court, sitting in open court, and that all the parties indicted prosecuting such Certiorari before the allowance thereof, shall find two sufficient sureties, who shall enter into a recognizance to the People of the State of New-York, before one of the justices of the Supreme Court, or before one or more justices of the peace of the county or place, or before the justices at their General Sessions of the Peace, of the county or place, where such indictment or presentment shall be found or made, in the sum of *fifty pounds*, with condition that the party or parties so indicted or presented, and prosecuting such Certiorari, shall at the return of such writ appear and plead to the said indictment or presentment in the said Supreme Court, and at his, her or their own costs and charges, cause and procure the issue that shall be joined upon the said indictment or presentment, or any plea relating thereto, to be tried at the next Circuit Court, to be held for the county wherein the said indictment or presentment was found or made, after such Certiorari shall be returnable, if not in the county where the said Supreme Court shall sit, and if in such county then to cause or procure it to be tried the next term after such Certiorari shall be granted, if the said Supreme Court shall not appoint any other time for the trial thereof, and if any other time shall be appointed by the said Supreme Court, then at such other time, and shall give due notice of such trial to the prosecutor, or his attorney, and shall appear from day to day in the said Supreme Court, and not depart until he, she or they shall be discharged by the said court. And moreover that in any of the vacations, writs of Certiorari may be granted by any of the justices of the Supreme Court, whose name shall be endorsed on the said writ, and also the name of such person at whose instance the same is granted; and that the party or parties, indicted or presented, prosecuting such Certiorari, shall, before the allowance of such writ, or writs of Certiorari, find such sureties in such sum, and with such conditions as are before mentioned and specified: And further, that every recognizance taken as aforesaid, shall be delivered to the court or justices to whom the Certiorari is directed, together with the said writ and the recognizance so taken as aforesaid, shall be certified into the said Supreme Court with the said Certiorari and indictment or presentment, and there filed, and the name of the prosecutor, if he be the party grieved.

or injured, or some public officer, shall be indorsed on the back of the said indictment or presentment, and if the person prosecuting such Certiorari, being the defendant, shall not before allowance thereof procure such sureties to be bounden in a recognizance as aforesaid, the justices of the peace may, and shall proceed to trial of the said indictment or presentment at the said General Sessions of the Peace, notwithstanding such writ of Certiorari so delivered.

When the justices in General Sessions shall proceed to trial notwithstanding the writ of Certiorari to the court, &c.

III. *And be it further enacted by the authority aforesaid,* That if the defendant prosecuting such writ of Certiorari be convicted of the offence for which he was indicted or presented, that then the said Supreme Court shall give reasonable costs to the prosecutor if he be the party grieved or injured, or be a Justice of the Peace, Mayor, Recorder, Alderman, Constable or Overseer of the Poor, or any other civil officer, who shall prosecute upon the account of any fact committed or done, or any thing omitted that concerned him or them as officer or officers, to prosecute or present, which costs shall be taxed according to the course of the said Supreme Court; and that the prosecutor for the recovery of the said costs, shall at any time after the expiration of ten days after demand made of the defendant and refusal or neglect of payment, proof thereof being made on oath, have an attachment granted against the said defendant by the said court for such his contempt, and that the said recognizance shall not be discharged till the costs so taxed shall be paid.

On conviction of the defendant prosecuting such writs, the prosecutor if the party grieved, &c. to have reasonable costs recoverable by attachment.

And Whereas, in many cases where Justices of the Peace are impowered by law to give or make judgments or orders, writs of Certiorari have been procured to remove such judgments or orders into the Supreme Court, in the hope thereby to discourage and weary out the parties concerned in such judgments or orders by great delays and expences. For remedy whereof,

Recital respecting the removal of judgments &c. by Certiorari in order to weary out the parties.

IV. *Be it further enacted by the authority aforesaid,* That no Certiorari shall be allowed to remove any such judgment or order from before any Justice or Justices of the Peace or General Sessions of the Peace, other than judgments given or to be given in suits or actions for debts or demands between party and party, made or to be made cognizable before Justices of the Peace or any of them, unless the party or parties prosecuting such Certiorari before the allowance thereof, shall find sufficient sureties who shall enter into a recognizance to the people of the State of New-York, before one of the Justices of the Supreme Court, or before one or more Justices of the Peace of the county or place, or before the Justices at their General Sessions of the Peace of the county or place where such judgment or order shall have been given or made, in the sum of *fifty pounds*, with condition that the party or parties prosecuting such Certiorari, shall prosecute the same at his, her or their own costs and charges to effect, without any wilful or affected delay, and perform such judgment or order as the same Supreme Court shall give or make against him or them in the premises, and pay the party or parties in whose favour or for whose benefit such judgment or order so to be removed was given or made within one month after the said judgment or order shall be confirmed, his, her or their full costs and charges, to be taxed according to the course of the said Supreme Court; and in case the party or parties prosecuting such Certiorari shall not procure such sureties, to be bound in such recognizance as aforesaid, it shall and may be lawful for the said Justice or Justices, or court of General Sessions of the Peace, to proceed and make such further order or orders for the benefit of the party or parties for whom such judgment or order shall be made or given, in such manner as if no Certiorari had been granted or delivered; and further, that every recognizance to be taken as aforesaid, shall be delivered together with the writ of Certiorari to the Justice or Justices, or court to whom such writ shall be directed, and the said recognizance shall be certified into the said Supreme Court, with the said Certiorari, and the judgment or order removed thereby and there filed; and if the said judgment or order shall be confirmed by the said court, the person or persons intitled to such costs for the recovery thereof at any time after the expiration of ten days after demand made, of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal or neglect of the payment thereof, shall have an attachment against him, her or them, granted by the said court for such contempt, and the

How to prevent such writs being allowed.

By binding the parties prosecuting such writs, in recognizance with sufficient sureties.

the said recognizance so given upon the allowing of such Certiorari shall not be discharged until the costs shall be paid and the judgment or order so confirmed shall be complied with and obeyed.

How writs are to be signed.

V. *And be it further enacted by the authority aforesaid*, That no writ of Certiorari shall be hereafter granted to remove any indictment, presentment, judgment, order, recognizance or other process or proceeding, unless the same writ be signed with the proper hand of one of the Justices of the Supreme Court, and in default thereof such writ shall be void and of none effect.

CHAP. III.

An ACT to avoid unnecessary Delays of Executions. Passed the 6th February 1788.

Prerequisites to staying executions by writ of error or superseas, for reversing judgments given in action of debt, &c.

3. Sec. 1.
8.

16 & 17 Car.
2. c. 8. §. 3

Where executions in writs of error brought upon judgment after verdict, in any writ of dower or action of ejectment shall not be stayed.

3.

Writs of error brought by executors or administrators, &c.

3 Jac. 1. c. 3 §. 15

16 & 17 Car. 2. c. 8. §. 3.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That no execution shall be stayed or delayed upon or by any writ of error or superseas; thereupon to be sued for the reversing of any judgment given or to be given in any action of debt upon any single bond for debt, or upon any obligation with condition for the payment of money only, or upon any action of debt for rent, or upon any contract sued in any court of Record in this State, unless such person or persons, in whose name or names such writ of error shall be brought with two sufficient sureties, such as the court wherein such judgment is or shall be given shall allow of, shall first before such stay made, or superseas awarded, be bound unto the party for whom any such judgment is or shall be given by recognizance to be acknowledged in the same court, in double the sum adjudged to be recovered by the said former judgment to prosecute the said writ of error with effect and also to satisfy and pay if the said judgment shall be affirmed, all and singular the debts, damages and costs, adjudged or to be adjudged upon the former judgment, and all costs and damages to be awarded for the delay of execution: And further, that no execution shall be stayed or delayed in any of the courts aforesaid, by any writ or writs of error or superseas thereupon, after any verdict and judgment thereupon obtained, in any personal action whatsoever, unless such recognizance, and in such manner as is above directed, shall be first acknowledged in the said court where such judgment is or shall be given.

II. *And be it further enacted by the authority aforesaid*, That in writs of error to be brought upon any judgment after verdict, in any writ of dower, or in any action of ejectment, no execution shall be thereupon or thereby stayed, unless the plaintiff or plaintiffs in such writ of error shall be bound unto the plaintiff in such writ of dower, or action of ejectment, in such reasonable sum as the court to which such writ of error shall be directed, shall think fit, with condition that if the judgment shall be affirmed in the said writ of error, or if the said writ of error be discontinued in default of the plaintiff or plaintiffs therein, or if the said plaintiff or plaintiffs be nonsuit in such writ of error, that then the said plaintiff or plaintiffs shall pay such costs damages and sum and sums of money as shall be awarded upon or after such judgment affirmed, discontinuance, or nonsuit. And to the end that the same sum and sums of money and damages may be ascertained, the court wherein such execution ought to be granted, upon such affirmation, discontinuance or nonsuit, shall issue a writ to enquire as well of the mesne profits as of the damages by any waste committed after the first judgment in dower or in ejectment, and upon the return thereof, judgment shall be given and execution awarded for such mesne profits and damages and also for the costs of suit: *Provided always*, that this act or any thing therein contained, shall not extend to any writ of error to be brought by any executor or administrator, nor to any action popular, nor to any action upon any penal statute, nor to any indictment, presentment, inquisition, information or appeal.

CHAP.

C H A P. IV.

An ACT for giving further Remedy by Action of Account. Passed the 6th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That where any person is or shall be bound or liable to account, as guardian, bailiff, receiver or otherwise to any other, and will not give account willingly, and the party to whom such account ought to be made shall sue out a writ of account, if the person against whom such writ is issued, being summoned do not appear at the return of the writ, or if it be returned that the defendant hath nothing, then the defendant shall be attached by his or her body, to come and make his or her account, and if it be returned that the defendant cannot be found, the process may be pursued to the exigent and outlawry thereupon; and when such accountant shall appear in court and submit or be adjudged to account, Auditors shall be assigned to take his or her account, and if he or she shall be found in arrears, and cannot pay the arrears and the costs of suit forthwith, he or she shall be committed to gaol, there to be kept under safe custody, living at his or her own costs, until he or she shall have fully satisfied such arrears with the costs of suit: And if such accountant shall neglect or refuse to account before the auditors, he or she shall be committed to gaol, there to be kept as aforesaid, until he or she shall satisfy the plaintiff of his or her demand, with costs as aforesaid. And further, that if it shall be found, that there is a surplufage due on such account from the plaintiff to the defendant, then the defendant shall have judgment to recover such surplufage with costs of suit, against the plaintiff, unless where the suit is brought by executors or administrators in right of their testator, or intestate; in which case the defendant shall not recover costs against them; And the defendant shall or may have such execution for the same, as he or she might have had, if he or she had recovered such surplufage by action of debt: And moreover, if any sheriff or gaoler shall suffer any such prisoner to go out of prison without the assent of the plaintiff, he shall be answerable to the plaintiff for the debt or damages done to him or her by such accountant, according as it may be found by the country; and the party at whose suit such prisoner was committed, shall have his or her recovery by action of debt, or by bill or plaint in any court of Record.

Persons bound to account, refusing, how to be proceeded against.

Where Sheriff or Gaoler suffering certain prisoners to escape, shall be answerable.

II. And be it further enacted by the authority aforesaid, That actions of account shall and may be brought and maintained by one joint-tenant, or tenant in common, his or her executors or administrators against the other, as bailiff for receiving more than comes to his or her just share or proportion, and against the executors or administrators of such joint-tenant or tenant in common.

One joint tenant, or tenant in common to have action of account against another.

III. And be it further enacted by the authority aforesaid, That the auditors appointed by the court where any action of account shall be depending, shall be and hereby are empowered to administer an oath, and to examine the parties on oath touching the matters in question; and for their pains and trouble in auditing and taking such account, shall have such allowance as the court shall adjudge to be reasonable, to be paid by the party in whose favor the ballance shall be found, and to be allowed to him or her, in the costs to be taxed against the opposite party where costs are recoverable.

Certain Auditors duty and allowance.

Ann. c. 16

26. 26.

C H A P. V.

An ACT to prevent Abuses and Delays in Actions of Replevin. Passed the 6th of February, 1788.

Beasts, goods or chattels, wrongfully detained, to be replevied, and the detainer how prosecuted,

Form of the plaint before the Sheriff.

Writs or plaints in replevin, &c removable by either party into the Supreme Court.

Form of a writ of replevin.

How the Sheriff is to make replevin.

BE it Enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if the beasts or goods or chattels of any person, at any time hereafter be taken and wrongfully detained, the sheriff, by a writ of Replevin to be issued out of the chancery, or upon complaint thereof to him to be made without writ, shall cause the same beasts or goods or chattels to be replevied and delivered without let or gainsaying of the person who took them, whether they were taken within liberties or without, and shall summon the person who took them to appear, if the suit be by writ, at the return thereof; and if by plaint, at the next court of Common Pleas, to be held in his county, to answer the plaintiff of the taking and unjust detention of the same beasts or goods or chattels: And if any defendant shall not appear according to such summons, then he or she shall be attached; and if such defendant shall not appear upon the return of the attachment, then he or she shall be distrained from time to time, until he or she shall appear to answer the plaintiff: And further, that such plaint before the sheriff shall be in writing, and in the following form: " Westchester county, to wit, " A. B. of Bedford, in the county of Westchester, yeoman, complains of C. D. of the manor of Pelham, in the county of Westchester, gentleman, of a plea of taking " and unjustly detaining his beasts (or his beasts, goods and chattels, or his goods and " chattels, or his certain mare, or his certain silver bowl) and gives security to pro- " secute his said complaint, and to return the same beasts, if return thereof shall be ad- " judged;" which plaint the sheriff shall return to the next court of Common Pleas, to be held in and for his county, in the same manner as if it was a writ of Replevin, returnable in the same court, and the like proceedings shall thereupon be had in the same court, as may or ought to be had upon a writ of Replevin: And moreover it shall be lawful for either party, in any writ or plaint in Replevin, to be depending in any court of Common Pleas, at any time before any juror is sworn, or any judgment obtained, to cause the writ or plaint and the proceedings thereon, to be removed into the Supreme Court by writ of Certiorari; and such proceedings shall be thereupon in the Supreme Court as if the suit had been originally commenced in the Supreme Court.

II. And be it further enacted by the authority aforesaid, That all writs of Replevin shall henceforth be made returnable in the Supreme Court, or in the court of Common Pleas, in and for the county where the beasts or goods or chattels, for the taking whereof the writ shall be brought, were taken and shall be in the form following. " The people, to the sheriff, If A. B. of the city of New-York merchant, shall " give you security to prosecute his complaint and to return his beasts (or his beasts " goods and chattels, or his goods and chattels, or his certain horse, or his certain " silver tankard,) which C. D. of Goshen in Orange county gentleman, took and un- " justly detains against gages and pledges, as he saith, if return thereof shall be ad- " judged; then cause the same beasts to be replevied and delivered to the aforesaid A. B. " without delay, and summon by good summoners the aforesaid C. D. that he be be- " fore our justices of our Supreme Court (or our judges and assistant justices of our " court of Common Pleas, to be held in and for your county) at (such a place) on " (such a day) to answer the aforesaid A. B. of a plea of taking and unjustly detaining " the beasts aforesaid."

III. And be it further enacted by the authority aforesaid, That if any person shall take the beasts or goods or chattels of another, and drive or convey and put them into any house or place of strength, and the person from whom the same beasts or goods or chattels shall be taken, sues for a Replevin thereof by writ or plaint, the sheriff shall solemnly demand deliverance thereof at the house or place where the same are detained;

tained; and if neither the taker nor any person on behalf of such taker, shall, upon demand, deliver the same, or if no person shall come upon such demand to deliver the same, the sheriff shall take the power of his county, and break open such house or place of strength, and make Replevin according to the writ or plaint.

IV. *And be it further enacted by the authority aforesaid,* That every sheriff before he makes deliverance of any beasts, goods or chattels, by virtue of any writ or plaint in Replevin, shall take of the plaintiff sufficient security to prosecute the suit and to return the same beasts, goods or chattels, if return thereof shall be adjudged; and if any sheriff shall take security otherwise, or neglect to take such security, he shall answer for the price or value of the beasts, goods and chattels, and the person who distraineth shall have his or her recovery by writ that he shall restore to him or her so many beasts goods or chattels.

When the Sheriff shall take security of the plaintiff to prosecute the suit, &c. or be accountable to the defendant for the value of the things delivered.

V. *And be it further enacted by the authority aforesaid,* That if the plaintiff in any action or suit in Replevin, shall make default, and a return of the beasts or goods or chattels is awarded to the distrainer, the sheriff shall be commanded by a judicial writ, to make return of the beasts or goods or chattels, unto the distrainer; in which writ it shall be expressed, that the sheriff shall not deliver them without writ making mention of the judgment, which cannot be without a writ issuing out of the same court in which the matter was moved; and if the plaintiff cometh unto them and desireth Replevin of the same beasts, goods and chattels, he or she shall have a judicial writ, that the sheriff, taking security for the suit and also for the return of the same beasts, goods and chattels, or for the price or value of them if return shall be awarded, shall deliver unto the plaintiff the beasts goods and chattels before returned, and the distrainer shall be attached to come and be at a certain day, at the court in which the plea was moved, in the presence of the parties, and if the plaintiff make default again or for another cause, return of the distress be awarded, being now twice replevied, the distress shall remain irrepleviable: But if a distress be taken of a new and for a new cause, the process aforesaid shall be observed in the same new distress. *And whereas* frequent abuses have been committed in the execution of writs of Replevin, by sheriffs making deliverance notwithstanding due notice and claim of property have been interposed by the defendant or possessor: For the more effectual prevention whereof.

Plaintiffs in suits in replevin making default, &c. The Sheriff to return the beasts, goods, &c. to the distrainer.

How plaintiffs may obtain replevin again, but on making default again, or for another cause, &c. the distress to be irrepleviable.

Recital respecting abuses in executing writs of replevin by Sheriffs.

VI. *Be it further enacted by the authority aforesaid,* That if at any time hereafter, on a writ or plaint of Replevin, the defendant in Replevin or possessor shall claim property in the thing whereof deliverance is sought, and the sheriff either by himself, his under sheriff, or bailiff, having due notice, shall nevertheless proceed to make deliverance, and dispossess such defendant thereof, before the claim of property shall be inquired into or tried according to law; such sheriff for every such offence shall, besides being answerable to the defendant for the trespass, forfeit the sum of *one hundred pounds* to be recovered by any person who shall sue for the same, in any court of Record, by action of debt, bill, plaint, or information; the one moiety thereof to the use of the person who shall sue for the same, and the other moiety thereof to the use of the people of this State.

The remedy against such abuses.

Sheriffs made answerable for the trespass, and fined 100 pounds.

VII. *And be it further enacted by the authority aforesaid,* That no distress of beasts shall be driven out of the town, manor, district or precinct where such distress is or shall be taken, except that it be to a pound-overt, within the same county, not above three miles distant from the place where the said distress shall be taken; and that no beasts or goods or chattels, distrained or taken by way of distress for any cause whatsoever, at one time shall be impounded in several places, whereby the owner or owners of such distress shall be constrained to sue several Replevins for the delivery of the said distress so taken at one time, upon pain that every person offending therein shall, for every such offence, forfeit to the party grieved *ten pounds* and treble damages, to be recovered in any court of Record by action of debt, bill, plaint or information.

Directions as to the impounding of beasts, &c.

Offenders herein forfeit 10l. and treble damages.

VIII. *And be it further enacted by the authority aforesaid,* That every sheriff shall, in every Replevin of a distress for rent, take, in his own name from the plaintiff and two sureties, a bond in double the value of the beasts or goods or chattels distrained (such value to be ascertained by the oath of one or more witnesses not interested, and which

Replevins of distress for rent. The Sheriff's duty thereon to take bonds of plaintiffs.

oath

11 Geo. 2. c. 19
23

Said bonds when
assignable to the de-
fendant, &c.

11 Geo 2. c. 19
§ 23.

oath such sheriff is hereby authorised to administer) and conditioned for prosecuting the suit with effect and without delay, and for returning the beasts or goods and chattels, in case a return shall be awarded, before any deliverance be made of the distress; and the sheriff shall at the request and costs of the defendant, avowant, or person making cognizance, assign such bond to the defendant, avowant, or person making cognizance, by indorsing the same, and attesting it under his hand in the presence of two witnesses; and if the bond be forfeited, the defendant, avowant or person making cognizance, may bring an action thereupon, in his or her own name, and the court may by rule give such relief, to the parties upon such bond, as shall be agreeable to justice, and such rule shall have the nature and effect of a defeazance to such bond.

Rents, customs or
services distrained
for, and replevin
sued; how the de-
fendant may avow,
or his or her ser-
vant justify for tak-
ing the distress.

The same mode
on writs of second
deliverance.

The privileges of
plaintiffs & defend-
ants in all writs or
plaints of replevin,
&c.

IX. *And be it further enacted by the authority aforesaid,* That wheresoever any lands tenements or hereditaments, are or shall be held by any person or persons, by rents customs or services, if the person of whom any such lands, tenements or hereditaments are or shall be held, shall distrain upon the same lands or tenements, for any such rents, customs or services, and Replevin thereof be sued, the person of whom the same lands, tenements or hereditaments are or shall be so holden may avow, or his or her bailiff or servant make cognizance or justify for taking the said distress, upon the same lands, tenements or hereditaments, so holden as in lands or tenements within his or her fee, alledging in the said avowery, cognizance and justification, the same lands and tenements to be holden of him or her, without naming any person certain to be tenant of the same, and without making any avowery, cognizance or justification upon any certain person. And that the distrainor, or his or her bailiff or servant may make avowery, cognizance or justification, in like manner and form upon every writ of second deliverance.

X. *And be it further enacted by the authority aforesaid,* That the plaintiffs and defendants in all writs or complaints of Replevin, or writs of second deliverance, and in every of them shall and may have like pleas and like aid prayers in all such avowries, cognizances, and justifications (pleas of disclaimer only excepted) as they might have had before the making of this act, and as though the said avowry, cognizance or justification had been made after the due order of the common law, and that all such persons as by the common law, may lawfully join to the plaintiffs or defendants in the said writs or complaints of Replevin or second deliverance, as well without process as by process, shall or may from henceforth join unto the said plaintiffs or defendants as well without process as by process and have like pleas and like advantages in all things (pleas of disclaimer only excepted) as they might have done by the order of the common law before the making of this act.

Plaintiff in re-
plevin non-suit be-
fore issue joined.

How the defend-
ant, if distress was
made for rent, is to
have judgment a-
gainst the plaintiff
for arrearages, &c.

XI. *And be it further enacted by the authority aforesaid,* That whensoever any plaintiff in Replevin shall be nonsuit before issue joined in any suit of Replevin by plaint or writ lawfully returned, removed or depending in any court of Record, the defendant, if the distress was made for rent, making a suggestion in nature of an avowry or cognizance for such rent, to ascertain the court of the cause of distress, the court upon his or her prayer, instead of awarding a return of the distress, shall ward a writ to the sheriff of the county where the distress was taken, to enquire by the oath of twelve good and lawful men of his bailiwick touching the sum in arrear at the time of such distress taken, and the value of the beasts, or goods and chattels distrained, and thereupon fifteen days notice shall be given to the plaintiff or his or her attorney in court of the sitting of such inquiry, and thereupon the sheriff shall enquire of the truth of the matters contained in such writ, by the oath of twelve good and lawful men of his county, and upon the return of such inquisition the defendant shall have judgment to recover against the plaintiff the arrearages of such rent, in case the beasts, goods and chattels distrained shall amount unto that value, and in case they shall not amount to that value, then so much as the value of the said beasts, goods and chattels so distrained shall amount unto, together with his or her full costs of suit, and shall have execution thereupon for the same, by Capias ad Satisfaciendum, Fieri Facias, or otherwise as the law shall require; and in case such plaintiff shall be nonsuit after

avowry

avowry or cognizance made, and issue joined, or if the verdict shall be given against such plaintiff, then the jurors impannelled or returned to enquire of such issue, shall, at the prayer of the defendant, enquire concerning the sum of the arrears and the value of the beasts or goods and chattels distrained, and thereupon the avowant or the person who makes cognizance shall have judgment for such arrearages, or so much thereof as the beasts, goods and chattels distrained amount unto, together with his or her full costs and shall have like execution for the same as aforesaid; and further, that if judgment be given upon demurrer, for the avowant, or the person who makes cognizance for any rent, the court instead of awarding a return of the distress, shall at the prayer of the defendant award a writ to inquire of the value of such distress, and upon the return thereof, judgment shall be given for the avowant, or person who makes cognizance as aforesaid, for the arrears alledged to be behind in such avowry or cognizance, if the beasts, or goods and chattels so distrained shall amount to that value, and in case they shall not amount to that value, then for so much as the said beasts, or goods and chattels so distrained amount unto; together with his or her full costs of suit, and shall have like execution for the same as aforesaid; *Provided always*, that where the value of the beasts, goods and chattels distrained as aforesaid, shall not be found to be of the full value of the arrears distrained for, the party to whom such arrears were due, his or her executors or administrators may from time to time distrain again for the residue of the said arrears.

Plaintiff in replevin non-suit after issue joined.

How the avowant, &c. shall have judgment for arrearages, &c.

The value of the distress less than the value of the arrears, the residue of arrears may be distrained for from time to time.

XII. *And be it further enacted & declared by the authority aforesaid*, That no Replevin shall be in any case of distress for any tax, assessment or fine, to be collected or levied in pursuance of any law of this State, and if any person or persons shall hereafter sue out or prosecute a Replevin in any such case, he she or they shall forfeit the sum of *fifty pounds* to be recovered with costs of suit, in any court of Record within this State by action of debt, bill, plaint or information; the one moiety to any person who shall sue for the same, and the other moiety to the People of this State.

No replevin allowed in cases of distress for tax, assessment or fine.

On pain of forfeiting 50l.

XIII. *And be it further enacted by the authority aforesaid*, That the act entitled, "An act to prevent the abuse of writs and plaints in Replevin," and an act, entitled "An act to prevent delays by writ of Replevin in cases of distress for taxes, assessments or fines," shall be and hereby are repealed.

Two acts repealed.

CHAPTER VI.

An ACT to prevent Forcible Entries and Detainers. Passed the 6th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That no person or persons shall hereafter make any entry into any lands, tenements or other possessions, but in cases where entry is given by the law, and in such case not with strong hand nor with multitude of people, but only in peaceable and easy manner; and if any person from henceforth do to the contrary, and thereof be duly convicted, he shall be punished by fine and imprisonment. And further, that at all times when such forcible entry shall be made and complaint thereof cometh to the Justices of the Peace of the same county, or to any of them, the same Justices or Justice shall take sufficient power of the county and go to the place where such force is made, and if they find any that hold such place forcibly after such entry made, the same Justices or Justice shall record such force, and set and impose a fine not exceeding *five pounds* upon every of the said offenders, to be paid by them for their said offences to the People of this State, and cause every of them so holding by force, to be taken and put into the next gaol of the same county, there to abide convict by the record of the same Justices or Justice, until they shall have respectively paid such fine to the People of this State. And further, that all the people of the county, as well the Sheriffs as others shall be attendant upon

The mode of entering into lands, tenements, &c. to be by law.

On pain of fine and imprisonment.

The duty of Justices on complaint of forcible entry.

To record the force

to fine

or imprison.

The county to assist them in arresting offenders.

on the Justices, to go and assist the same Justices to arrest such offenders upon pain of fine and imprisonment.

Restitution to the party aggrieved.

And to the end that the party aggrieved, where any person shall make any such entry by force, or shall enter in peaceable manner, and after hold by force, may have restitution.

The manner of putting him into possession.

II. *Be it further enacted by the authority aforesaid,* That where any person doth make any forcible entry into any lands, tenements or other possessions, or them hold forcible, after complaint thereof made within the same county where such entry is made, to the Justices of the Peace of the same county, or to any one of them, by the party grieved; the same Justices or Justice, so warned within a convenient time, shall go to the place where such force is made taking the power of the county with him, or them, if need be, and remove such force, if any there be; and shall at the costs of the party grieved, cause this act to be duly executed; and whether the persons making such entries be present or departed before the coming of the same Justices or Justice, the same Justices or Justice in some good town in the same county next to the tenements so entered, or in some other convenient place, according to their discretion, shall have, and either of them shall have authority and power to inquire, by the people of the same county, as well of them that make such forcible entries into lands or tenements, as of them which the same hold with force; and if it be found before any of them that any doth contrary to this statute, then the said Justices or Justice shall cause the lands and tenements so entered or holden as aforesaid to be resealed, and shall put the party, so put out, in full possession of the same lands and tenements so entered or holden as aforesaid. And if any person, after such entry into lands or tenements holden with force, make a feoffment or other discontinuance to any person, to have maintenance or to take away and defraud the possessor of his recovery in any wise, if after, in assize or other action thereof to be taken or pursued, in any Court of Record, by due inquiry thereof to be taken, the same feoffments and discontinuances be duly proved to be made for maintenance as aforesaid; then such feoffments or other discontinuances, so as before made, shall be void, frustrate, and holden for none.

Certain feoffments &c. declared void,

Justice's precept for a jury of enquiry

III. *And be it further enacted by the authority aforesaid,* That when the said Justices or Justice make such inquiries as aforesaid, they or one of them shall make a warrant or precept to be directed to the Sheriff of the same county, commanding him in the name of the People of the State of New-York, to cause to come, before the same Justices or Justice at a certain time and place therein to be specified, not less than two days from the time of issuing thereof, twenty-four good and lawful men of the same county, duly qualified to serve as jurors in such county on trials in the Supreme Court, to inquire of such entries, and shall, at the time of making such warrant or precept, cause a notice in writing of the issuing thereof, and of the time and place of the return thereof, to be affixed up in some public and suitable place upon the lands or tenements so entered or holden, or delivered to the party against whom such complaint is made, if such party be on the premises. And further, that the Sheriff shall return issues upon every one of the jurors, at the day of the return of the first precept *twenty shillings*, and at every day after the double. And if any person who shall

Their qualification.

Sheriff to return issues upon every one of the jurors.

Persons indicted choosing to traverse. Warrant to the Sheriff for a jury to try the same traverse.

be indicted upon this act, before such Justices or Justice, shall immediately traverse such indictment, then the same Justices or Justice shall make a warrant or precept to be directed to the Sheriff of the same county, commanding him in the name of the People of the State of New-York, to cause to come before such Justices or Justice, at a certain day not less than four nor more than eight days from the time of issuing such precept, and at a certain place therein to be specified, twelve good and lawful men of the same county, who shall be such as are or shall be qualified to serve as jurors as aforesaid, to try the same traverse, and the Sheriff shall return issues upon every of them in the manner aforesaid. And if any Sheriff be slack and make not execution duly of such precept to him directed to make such inquiries, or try such traverse, he shall forfeit *twenty pounds* for every default to the party grieved, to be recovered with costs of suit in any Court of Record in the same county where the offence shall be committed, by action of debt, bill, plaint, or information.

The Sheriff delinquent to forfeit 20l.

IV. *And*

IV. *And be it further enacted by the authority aforesaid,* That no restitution upon any indictment of Forcible Entry or holding with force be made to any person or persons, if the person or persons so indicted, or his or their ancestors, or those whose estate they have in such lands and tenements, hath or have had the occupation, or hath or have been in quiet possession, by the space of three whole years together, next before the day of such indictment so found, and his her or their estate or estates therein not ended or determined, which the party indicted shall and may alledge for stay of restitution, and restitution to stay until that be tried, if the party complaining will deny or traverse the same; and then the Justices or Justice, before whom such indictment shall be found, shall proceed to try the same in the manner herein before directed.

Where restitution is not to be made.

V. *And be it further enacted by the authority aforesaid,* That if the allegation or traverse taken or made by the person or persons indicted, be tried against the person or persons so indicted, either before the same Justices or Justice, or before the Justices of the Supreme Court, or either of them, in case the proceedings be removed into the Supreme Court before such trial, then and in every such case, restitution shall be awarded by the Justices or Justice before whom the same shall be tried, or by the Supreme Court, in the same manner as if no plea or traverse had been made or put in by such persons so indicted, and the person or persons so convicted, shall pay such costs and damages to the party complaining, as shall be assessed by the Justices or Justice before whom the same is tried, or by the Supreme Court, if the proceedings shall be removed into the Supreme Court before such trial as aforesaid; the same costs and damages to be recovered and levied in the same manner as costs and damages upon judgments in other actions are recovered.

Where restitution shall be awarded by Justices, or by the Supreme Court.

Costs and damages how to be levied.

VI. *And be it further enacted by the authority aforesaid,* That this act shall extend as well to tenants for years and guardians, as to such as have estates of freehold.

The extension of this act.

VII. *And be it further enacted by the authority aforesaid,* That if any person be disseised or ejected, or put out of any lands or tenements in forcible manner, or put out peaceably, and after holden out with strong hand, or after such entry any feoffment or discontinuance in any wise thereof be made to defraud and take away the right of the possessor, the party grieved in this behalf shall have assise of novel disseisin, or a writ of trespass against such offenders; and if the party aggrieved recover by assise or by action of trespass, and it be found by verdict or in any other manner by due course of law, that the party defendant entered with force into the lands and tenements, or them, after his entry did hold with force, the plaintiff shall recover his treble damages, with costs of suit against the defendant.

Where person disseised or ejected shall have assise of novel disseisin, or writ of trespass against offenders.

Where treble damages with costs shall be recovered for the plaintiff.

VIII. *And be it further enacted by the authority aforesaid,* That all Mayors, Recorders, Justices of the Peace and Aldermen and Sheriffs of cities shall have, in the same cities, the like power to remove such entries, and in the other articles aforesaid, arising within the same, as the Justices of the Peace and Sheriffs have by this act in the several counties of this State.

Powers of Mayor, Recorder, &c. of cities to execute this act.

C H A P. VII.

An ACT to enable Grantees of Reversions to take Advantage of the Conditions to be performed by Lessees. Passed the 6th February, 1788.

BE it enacted by the people of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same; That as well all and every person and persons and bodies, politic and corporate, their heirs, successors and assigns, which have or shall have any gift or grant of the People of the State of New-York, by any ways or means howsoever, of any manors, lands, tenements, rents or other hereditaments, or of any reversion or reversions of the same which did belong or appertain to any other person or persons, and have or shall by any ways or means come to the People of the State of New-York; as also, all other

Grantees of reversions may take advantage of conditions against lessees of the same lands.

32 H. 8. 34

other persons being grantees or assignees to or by the People of the State of New-York, or to or by any other person or persons, and the heirs, executors, successors and assigns of every of them, shall and may have and enjoy like advantages against the lessees, their executors, administrators and assigns, by entry for the non-payment of the rent or for doing of waste or other forfeiture; and also, shall and may have and enjoy all and every such like and the same advantage, benefit and remedies by action only for not performing other conditions, covenants or agreements, contained and expressed in their leases, demises or grants against all and every the said lessees and termers, and grantees, their executors, administrators and assigns, as the lessors or grantors themselves or their heirs or successors ought, should or might have had and enjoyed at any time or times in like manner and form as if the reversion of such lands, tenements or hereditaments had remained and continued in the same lessors or grantors or in their heirs or successors.

Lessees may have the like remedy against the grantees of the reversions which they might have had against their grantors.

32 H. 8. c. 34.

Exception.

II. *And be it further enacted by the authority aforesaid*, That all termers, lessees and grantees of manors, lands, tenements, rents or any other hereditaments, for term of years or life or lives, their executors, administrators and assigns, shall and may have like action, advantage and remedy against all and every person and persons and bodies, politic and corporate, their heirs, successors and assigns, which have or shall have any gift or grant of the People of the State of New-York, or of any other person or persons of the reversion of the same manors, lands, tenements, rents or hereditaments, so letten or any parcel thereof, for any condition, covenant or agreement contained or expressed in their lease or leases, as the same lessees or any of them might and should have had against their lessors and grantors, their heirs or successors: All benefits and advantages of recoveries in value by reason of any warrantee in deed or in law by voucher or otherwise only excepted.

C H A P. VIII.

An ACT to compel Joint Tenants and Tenants in Common to make Partition, and for the more easy obtaining Partition of Lands in Coparcenary, Joint Tenancy and Tenancy in Common. Passed the 6th February, 1788.

Joint tenants and tenants in common of estates of inheritance compelled to make partition by writ of partition as coparceners are by common law.

Such tenants and their heirs to have aid to dereign the warranty, paramount and to recover.

How joint tenants or tenants in common holding for term of years, &c. & such tenants with others having estates of inheritance are compelled to make partition,

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same; That all joint tenants and tenants in common, that now be or hereafter shall be, of any estate or estates of inheritance in their own rights or in the right of their wives of any manors, lands, tenements or hereditaments within this State, shall and may be compelled by virtue of this act to make partition between them, of all such manors, lands, tenements and hereditaments as they now hold or hereafter shall hold, as joint tenants or tenants in common, by writ of partition in that case to be devised in the Court of Chancery, in like manner and form as coparceners by the common law have been and are compelled to do, and the same writ to be pursued at the common law; but that every of the said joint tenants or tenants in common and their heirs after such partition made, shall and may have aid of the other or of his, her or their heirs, to the intent to dereign the warranty paramount and to recover for the rate, as is used between coparceners after partition made by the order of the common law.

II. *And be it further enacted by the authority aforesaid*, That all joint tenants and tenants in common and every of them, who now hold or hereafter shall hold jointly or in common, for term of life or lives, year or years, and joint tenants or tenants in common, where one or some of them have or shall have estate or estates for term of life or lives, or year or years, with the other or others, that have or shall have estate or estates of inheritance or freehold in any manors, lands, tenements or hereditaments, shall and may be compellable from henceforth by writ of partition out of the Court of Chancery, upon his, her or their case or cases, and to be pursued at the common law,

law, to make severance and partition of all such manors, lands, tenements and hereditaments, which they hold jointly or in common, for term of life or lives, year or years, or where one or some of them hold jointly or in common, for term of life or lives, year or years, with another or others, that have an estate or estates of inheritance or freehold: But that no such partition or severance hereafter to be made by force of this clause of this act be, nor shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such as be parties unto the said partition, their executors or assigns.

Partition not to be hurtful to any but the parties thereto or their executors, &c.

III. *And be it further enacted by the authority aforesaid,* That after process of *pone* or attachment returned upon any writ of partition, between coparceners at the common law or custom, or between joint tenants or tenants in common by virtue of this act, affidavit being made by any credible person, of due notice given of the said writ of partition to the tenant or tenants to the action and a copy thereof left with the occupier or tenant or tenants or if they cannot be found, to the wife, son or daughter, (being of the age of one and twenty years or upwards) of the tenant or tenants, or to the tenant in actual possession, by virtue of any estate of freehold, or for term of years, or uncertain interest or at will, of the manors, lands, tenements or hereditaments, whereof the partition is demanded, (unless the said tenant in actual possession be demandant in the action) at least forty days before the day of the return of the said *pone* or attachment, if the tenant or tenants to such writ or any of them, or the true tenant to the messuages, lands, tenements and hereditaments as aforesaid, shall not in such case within fifteen days after return of such writ of *pone* or attachment, cause an appearance to be entered in such court where such writ of *pone* or attachment shall be returnable, then, in default of such appearance the demandant having entered his declaration, the court may proceed to examine the demandant's title and quantity of his part and purpart, and accordingly as they shall find his right part and purpart to be, they shall for so much give judgment by default and award a writ to make partition, whereby such proportion, part and purpart may be set out severally; which writ being executed, after eight days notice given to the occupier or tenant or tenants of the premises, and returned, and thereupon final judgment entered, the same shall be good and conclude all persons whatsoever, after notice as aforesaid, whatever right or title they have or may at any time claim to have, in any of the manors, messuages, lands, tenements and hereditaments mentioned in the said judgment, and writ of partition, although all persons concerned are not named in any of the proceedings nor the title of the tenants truly set forth.

The mode of compelling a partition.

Judgment given by default and a writ of partition awarded.

Provided always, That if such tenant or person concerned or either of them against whom, or their right or title, such judgment by default is given, shall within the space of one year after the first judgment entered or in case of infancy, coverture, insane memory or absence out of the State, within one year after his, her or their return, or the determination of such inability apply themselves to the court where such judgment is entered by motion, and shew good and probable matter in bar of such partition, or that the demandant hath not title to so much as he hath recovered, then in such case the court may suspend or set aside such judgment and admit the tenant and tenants to appear and plead and the cause shall proceed according to due course of law, as if no such judgment had been given; and if the court upon hearing thereof shall adjudge for the first demandant, then the said first judgment shall stand confirmed and be good against all persons whatsoever, except such other persons as shall be absent or disabled as aforesaid, and the person or persons so applying shall be awarded thereupon to pay costs; or if within such time or times aforesaid, the tenants or persons concerned, admitting the demandant's title, parts and purparts, shall shew to the court an inequality in the partition, the court may award a new partition to be made in the presence of all parties concerned, if they will appear, notwithstanding the return and filing upon record of the former; which said second partition, returned and filed, shall be good and firm forever against all persons whatsoever, except as before excepted.

Proviso: When the court may set aside such judgment by default and admit tenants to plead, and the cause tried as if no judgment had been given.

Whom the first judgment shall only stand against.

Where a new partition shall be awarded.

E

IV. And

No plea of abatement admitted in suits for partition.

In the Sheriff's absence, how the under-sheriff shall execute a writ of partition.

The Sheriff to make return.

Tenants to hold such parts as are set out for their land-lords who are to warrant them as before partition made.

Privilege of demandants being tenants in possession to the tenant to the action.

Sheriffs, under-sheriffs, deputies & Justices neglecting their duty to pay costs and damages to the demandant.

How recovered.

Demandant accountable for fees.

How informers on penal statutes shall prosecute.

IV. *And be it further enacted by the authority aforesaid,* That no plea in abatement shall be admitted or received in any suit for partition; nor shall the same be abated by reason of the death of any tenant.

V. *And be it further enacted by the authority aforesaid,* That when the Sheriff by reason of distance, infirmity, or any other hindrance, cannot conveniently be present at the execution of any judgment in partition, in such case the under-sheriff in the presence of two Justices of the Peace of the county where the lands, tenements or hereditaments to be divided do lie, shall and may proceed to the execution of any writ of partition, by inquisition in due form of law, as if the Sheriff were then personally present; and the Sheriff thereupon shall and is hereby enabled and required to make the same return as if he were personally present at such execution; and in case such partition be made, returned and filed, he or they that were tenant or tenants of any of the said messuages, lands, tenements and hereditaments, or of any part or purpart thereof, before they were divided, shall be tenant or tenants for such part set out severally to the respective land-lords or owners thereof, by and under the same conditions, rents, covenants and reservations, where they are or shall be so divided; and the land-lords and owners of the several parts and purparts so divided and allotted as aforesaid, shall warrant and make good to the respective tenants, the said several parts severally, after such partition, as they are or were bound to do, by any agreement, leases or grants of their respective parts, before any partition made; and in case any demandant be tenant in actual possession to the tenant to the action, for his part and proportion or any part thereof, in the messuages, lands, tenements and hereditaments to be divided by virtue of a writ of partition as aforesaid for any term of life, lives or years, or uncertain interest, the said tenant so in actual possession shall stand and be possessed of the said purparts and proportions for the like term and under the same conditions and covenants, when it is set out severally in pursuance of this act.

VI. *And be it further enacted by the authority aforesaid,* That the respective Sheriffs their under-sheriffs and deputies, and in case of sickness or disability of the Sheriff, all Justices of the Peace within their respective counties shall give due attendance to the executing such writ of partition, unless reasonable cause be shewn to the court, upon oath, and there allowed of, or otherwise be liable, every of them, to pay unto the demandant such costs and damages as shall be awarded by the court, not exceeding five pounds, for which the demandant or plaintiff may bring his action in any court having cognizance thereof, and recover the same with costs; and in case the demandant shall not agree to pay to the Sheriff or under-sheriff, Justices and jurors, such fees as they shall respectively demand for their pains and attendance in the execution of the same and the returning thereof, then the court shall award what each person shall receive, having respect to the distance of the place from their respective habitations, and the time they must necessarily spend about the same, for which they may severally bring their actions as aforesaid.

C H A P. IX.

An ACT to redress Disorders by Common Informers, and to prevent malicious Informations. Passed the 6th of February, 1788.

BE it Enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That every informer upon any penal statute made or to be made, shall exhibit or commence his suit in proper person and pursue the same, only by himself or by his attorney in court, and that no person shall be admitted or received to pursue against any person or persons upon any penal statute, but by action of debt, bill, plaint or information, and not otherwise, nor shall have nor use any deputy or deputies at all, and that upon every such information which shall be exhibited, a special note shall be made of the very

very day, month and year of the exhibiting thereof, into any office or to any officer who lawfully may receive the same, without any manner of anti-date thereof to be made, and that the same information shall be accounted and taken to be of record from that time forward and not before, and that no process be sued out upon such information until the information be exhibited in form aforesaid. And further, that upon every process to be sued out upon any such action, bill, plaint or information, to compel the appearance of any defendant, shall be endorsed, as well the name of the party who pursueth the same process, as also the title of the statute upon which the action or information, in that behalf had or made, is grounded; and that every clerk making out or issuing process contrary to the tenor and provision of this act, shall forfeit and lose three pounds for every such offence; the one half to the use of the People of this State of New-York, and the other half to the party against whom any such defective process shall be awarded, to be recovered with costs in any court having cognizance thereof, by action of debt, bill, plaint or information.

When information shall be taken to be of record.

Process how to be endorsed.

Where clerks shall forfeit 3l.

to be recovered with costs.

II. *And be it further enacted by the authority aforesaid*, That in all informations to be exhibited, and in all bills, plaints and declarations in any action or suit to be commenced against any person or persons, either by or on behalf of the People of the State of New-York, or by any other, or on the behalf of the People of the State of New-York and any other, for or concerning any offence committed or to be committed against any penal statute made or to be made, the offence shall be laid and alledged to have been committed in the county where such offence was in truth committed and not elsewhere; and if the defendant to any such information, action or suit pleadeth that he oweth nothing, or that he is not guilty, and the plaintiff or informer in such information, action or suit, upon evidence to the jury that shall try such issue, shall not both prove the offence laid in the said information, action or suit, and that the same offence was committed in that county, then the defendant and defendants shall be found not guilty: *Provided always*, that this act or any thing herein contained shall not extend to the laying or alledging of any offence in any declaration, bill, plaint or information for or concerning any maintenance, champerty, buying of titles, imbracery or extortion, or for or concerning any matter of corrupt usury, or for or concerning any custom, duty or impost, upon any goods, wares or merchandize, imported or to be imported into this State; but that every such offence shall or may be laid in any county at the pleasure of any such informers.

In all informations, bills, plaints, &c. the offence shall be laid and alledged to have been committed in the county where it was committed and not elsewhere.

Where the defendant shall be found not guilty. *Provido*.

Certain offences that may be laid in any county.

III. *And be it further enacted by the authority aforesaid*, That if any information, suit or action, shall be brought or exhibited against any person or persons, for any offence committed or to be committed against the form of any penal law made or to be made, either by or on behalf of the People of the State New-York or by any other, or on the behalf of the People of the State of New-York and any other, it shall be lawful for such defendants to plead the general issue that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the jury that shall try the same, as if pleaded would have been a good and sufficient matter in law to have discharged such defendant or defendants against the said information suit or action, and the said matter shall be as available to him or them, to all intents and purposes as if he or they had sufficiently pleaded, set forth or alledged the same matter in bar or discharge of such information suit or action.

Defendants in actions brought for offence against penal law may plead the general issue.

Matter they may give in evidence.

IV. *And be it further enacted by the authority aforesaid*, That the like process in any action, bill, plaint, information or suit, to be commenced, sued or prosecuted upon any penal statute made or to be made, shall be had and awarded to all intents and purposes, as in an action of trespass with force and arms at the common law.

Like process in any action &c. to be sued upon penal statutes, as in actions of trespass at common law.

V. *And be it further enacted by the authority aforesaid*, That if any citizen of this State or of any of the United States of America, shall be sued or informed against in the Supreme Court, or in the Court of Exchequer upon any penal law made or to be made, where such person isailable by law, or where by the leave or favour of the court such person may appear by attorney, then in all and every such case the person so impleaded or sued, shall and may at the day and time contained in the first process, served for his or her appearance, appear by attorney of the same court where the process

Where any citizen of this State or the United States sued in the Supreme Court or Court of Exchequer upon any penal law may appear by attorney.

cess is returnable, to answer and defend the same, and shall not be urged to a personal appearance, or to put in bail for the answering of such suit.

Juries not compellable to appear above 30 miles from the place where the court shall sit, except at the request of the Attorney-General.

VI. *And be it further enacted by the authority aforesaid,* That no jury shall be compelled to appear in the Supreme Court or Court of Exchequer, for the trial of any issue in any action, information or suit, upon any penal statute for any offence committed above thirty miles from the place where same court shall sit, except in case where the Attorney General, for the time being, for some reasonable cause in that behalf to be shewed, shall require the same to be tried at the bar in either of the said courts; which request shall be noted on the back of the writ of *distringas* thereupon awarded, to the end the Sheriff or his bailiff may and shall signify the same to the jury that are in such case impaneled.

Where the plaintiff sues in any action popular, and defendant pleads any recovery in bar, afterwards found to be by covin or collusion.

The plaintiff shall recover and have execution as if no recovery had been before had.

Defendant condemned or attainted of covin to be imprisoned two years at the suit of the People of the State, &c.

No release &c. available to bar the said action, &c.

Provido, where plaintiffs are not received to aver any covin.

No informer or plaintiff may compound with any offender, &c. but by order of court.

Where the informer or plaintiff shall pay to the defendant his costs, &c.

For the recovery of which the said defendant to have his execution out of the same court.

Certain offenders against this act disabled to be plaintiff

VII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall sue with good faith, any action popular, and the defendant or defendants in the same action plead any manner of recovery in any action popular in bar of the said action, or else that the same defendant or defendants plead that he or they, before that time barred any plaintiff or plaintiffs in any such action popular, that then the plaintiff or plaintiffs in the action taken with good faith may aver that the said recovery in the said action popular was had by *covin* or else aver that the said plaintiff or plaintiffs so barred, was or were barred in the said action popular by *covin*, and then if after such averment the said collusion or *covin* so averred be lawfully found, the plaintiff or plaintiffs in the action sued with good faith shall recover according to the nature of the action, and have execution upon the same, in like manner as if no such action or recovery had been before had. And further, that in every such action popular wherein the defendant or defendants shall be lawfully condemned or attainted of *covin* or collusion as aforesaid, every such defendant shall have imprisonment of two years by process of *capias*, to be sued within the year after such judgment had, or at any time after till the said defendant or defendants shall be had and imprisoned as aforesaid, and that as well at the suit of the People of the State of New-York, as of every other that will sue in that behalf, and such process shall and may be pursued to outlawry. And moreover no release of any common person made or to be made to any such defendant or defendants, whether before or after any action popular or indictment of the same had or commenced, or made or pending the same action, shall be in any wise available or effectual to let, surcease or bar the said action, indictment, process or execution. *Provided always,* that no plaintiff or plaintiffs be in any wise received to aver any in *covin* an action popular, where the point of the same action or else the *covin* or collusion have been once tried or lawfully found with the plaintiff or plaintiffs or against them by the verdict of twelve men and not otherwise.

VIII. *And be it further enacted by the authority aforesaid,* That no informer or plaintiff in any action popular shall or may compound or agree with any person or persons who shall offend or shall be surmised to have offended against any penal statute made or to be made for such offence committed or pretended to have been committed, but after answer made in court to the information or suit in that behalf exhibited or prosecuted, nor after answer, but by the order or consent of the court in which the same information or suit is or shall be depending: And further, that if any such informer or plaintiff as aforesaid, shall willingly delay his suit or shall discontinue or become non-suit in the same, or shall have the trial or matter passed against him therein by verdict or judgment of law, that then, and in every such case the same informer or plaintiff shall yield, satisfy and pay unto the party defendant his costs, charges and damages to be assigned by the court in which the same suit is or shall be attempted: For the recovery whereof every such defendant shall immediately upon the same costs, charges and damages assigned have his execution for the same to be awarded unto him out of the same court in which the same shall be so assigned as aforesaid, as in other cases of execution.

IX. *And be it further enacted by the authority aforesaid,* That if any person or persons (except the clerks of the court only for making out of process otherwise than is above appointed) shall offend in suing out of process, making of composition or other

ther misdemeanor, contrary to the true intent and meaning of this act, or shall by colour or pretence of process, or without process upon colour or pretence of any matter of offence against any penal law, make any composition or take any money, reward or promise of reward for himself or to the use of any other, without the order or consent of some Court of Record, that then he or they so offending, being thereof lawfully convicted, shall for ever be disabled to pursue or be plaintiff or informer in any suit or information upon any statute popular or penal, and shall also, for every such offence, forfeit and loose the sum of *forty pounds*; the one half thereof to the People of the State of New-York, and the other half to the party grieved thereby, to be recovered with costs in any Court of Record by action of debt, bill, plaint or information; and that Justices of Oyer and Terminer, Justices of Gaol Delivery and Justices of the Peace, in their sessions shall have full power and authority to hear and determine all offences to be committed or done contrary to the true intent and meaning of this act: *Provided always,*

or informer in any suit and upon any penal statute, and to forfeit 40l.

How to be recovered with costs.

X. *And be it further enacted by the authority aforesaid,* That this act shall not extend to restrain any certain person, body politic or corporate to whom or to whose use any forfeiture, penalty or suit is or shall be specially limited or granted, by virtue of any statute and not generally to any person who will sue; but that every such certain person, body politic or corporate may in such case sue, inform and pursue, as he or they might have done if this act had never been made. And to prevent malicious informations in the Supreme Court of Judicature of this State for trespasses, batteries and other misdemeanors.

This act not to extend to certain descriptions.

XI. *Be it further enacted by the authority aforesaid,* That the clerk of the Supreme Court, for the time being shall not without express order to be given by the said court, receive or file any information, for any trespass, battery or other misdemeanor, or seal any process thereupon, before he shall have delivered to him a recognizance from the person or persons procuring such information or informations to be exhibited, to be entered into, to the person or persons against whom such information or informations is or are to be exhibited, with sufficient security, in the penalty of *twenty pounds* that he, she or they will effectually prosecute such information or informations, and abide by and observe such orders as the said court shall direct (which recognizance any one of the Judges of the said Supreme Court is impowered to take;) and after the taking and receipt whereof, the clerk of the said court shall make an entry thereof upon record, and shall file a memorandum in some public place in his office, that all persons may resort thereunto without fee: And in case any person or persons against whom any information or informations for the causes aforesaid or any of them, shall be exhibited shall appear thereunto and plead to issue, and the prosecutor or prosecutors of such information or informations shall not, at his and their own proper costs and charges, at or before the second court (in which the same might be tried) next after issue joined therein, procure the same to be tried; or if upon such trial a verdict pass for the defendant or defendants, or in case the said informer or informers procure a *nolle prosequi* to be entered, then in any of the said cases, the said Supreme Court is hereby authorized to award to the said defendant or defendants, his or their costs, unless the Judge before whom such information or informations shall be tried, shall at the trial of such information or informations, in open court, certify upon record that there was a reasonable cause for exhibiting the same. And in case the said informer or informers shall not within ten days next after the said costs shall be taxed and demand made thereof, pay to the said defendant or defendants the said costs, then the said defendant or defendants shall have the benefit of the said recognizance to compel them thereunto.

Directions to the clerk to prevent malicious informations or misdemeanors.

Persons informed against for trespass, battery, &c. pleading to issue, and the prosecutors not procuring the same to be tried, or verdicts passing for defendant, &c.

the court to award costs to the defendant unless the Judge certify there was reasonable cause for exhibiting said information.

Informer compelled to pay the costs.

C H A P. X.

An ACT for the more effectual Discovery of the Death of Persons beyond Sea, or absenting themselves, upon whose Lives Estates do depend. Passed the 6th February, 1788.

WHEREAS divers persons have estates for one or more life or lives, or for one or more year or years, determinable upon one or more life or lives; and it hath often happened that such person or persons, for whose life or lives, such estates are held, have gone beyond sea, or so absented themselves for many years, that the lessors, reversioners or persons in remainder, cannot find out whether such person or persons be alive or dead. *Therefore*

Preamble.

Respecting leases, &c. for lives or persons beyond sea or absent many years.

Such persons, upon whose lives estates depend, when they shall be accounted as dead.

And when in action by lessors, &c. the Judges shall direct the jurors to give their verdict as if the absent persons were dead.

When the lessee, who was ousted of the lands, &c. by the absence of the person on whose life his estate depended, shall re-enter and enjoy the lands, &c.

and have an action against lessors, &c.

Recital.
Respecting guardians and trustees of persons having estates determinable on a life or lives.

Claimants to any remainder, reversion &c. after the sup-

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same; That if any such person or persons, for whose life or lives such estates have been, or shall be granted or held as aforesaid, shall remain beyond sea, or absent himself, herself or themselves in this State or elsewhere, by the space of seven years together, and no sufficient and evident proof be made of the life or lives of such person or person respectively, in any action commenced or to be commenced for the recovery of such tenements by the lessors or reversioners or other person or persons entitled to the same estate, upon the death of such person or persons, in every such case the person or persons upon whose life or lives such estate depended shall be accounted as naturally dead; and in every action brought for the recovery of the said tenements by the lessors or reversioners, or other person or persons entitled to the same, upon the death of such person or persons, and their heirs or assigns, the Judges before whom such action shall be brought shall direct the jury to give their verdict as if the person or persons so remaining beyond sea, or otherwise absenting himself, herself or themselves were dead. *Provided always, and*

II. Be it further enacted by the authority aforesaid, that if any person or persons shall be evicted out of any lands or tenements by virtue of this act, and afterwards if the person or persons, upon whose life or lives, such estate or estates depend, shall return again from beyond sea, or shall on proof in any action to be brought for the recovery of the same, be made appear to be living, or to have been living at the time of the eviction, that then and from thenceforth the tenant or lessee who was ousted of the same, his, her or their executors, administrators or assigns, shall or may re-enter, re-possess, have, hold, and enjoy the said lands or tenements in his, her or their former estate, for and during the life or lives, or so long a term as the said person or persons, upon whose life or lives, the said estate or estates depend, shall be living; and also shall upon an action or actions to be brought by him, her or them, against the lessors, reversioners or tenants in possession, or other persons respectively, which since the time of such eviction received the profits of the said lands or tenements, recover for damages the full profits of the said lands or tenements respectively, for and from the time that he, she or they were ousted of the said lands or tenements, and kept and held out of the same, by the said lessors, reversioners, tenants or other persons, who after the said eviction received the profits of the said lands or tenements, or any of them respectively, as well in the case when the said person or persons, upon whose life or lives such estate or estates did depend, are or shall be dead at the time of bringing of the said action or actions, as if the said person or persons were then living.

And Whereas divers persons as guardians and trustees for infants, and husbands in right of their wives, and other persons having estates or interests determinable upon a life or lives have continued to receive the rents and profits of such lands or tenements, after the determination of their said particular estates or interests; and whereas the proof of the death of the persons on whose lives such particular estates or interests depended, is very difficult, and several persons have been and may be thereby defrauded, for remedy whereof, and for preventing such fraudulent practices in future:

III. Be it further enacted by the authority aforesaid, That any person or persons who hath or have or shall have any claim or demand in or to any remainder, reversion

or

or expectancy in or to any estate after the death of any person within age, married woman, or any other person or persons whatsoever, upon affidavit made in the Court of Chancery in this State, by the person or persons so claiming such estates of his, her or their title, and that he, she or they hath or have cause to believe that such infant, married woman, or other person or persons, is or are dead, and that his, her or their death is concealed by such guardian, trustee, husband or any other person or persons shall and may once a year, if the person or persons aggrieved shall think fit, move the Chancellor for the time being to order, and he is hereby authorized and required to order such guardian, trustee, husband or other person or persons concealing or suspected to conceal such person or persons on whose life or lives such estate doth, shall or may depend, at such time and place as the said court shall direct on personal or other due service of such order, to produce and shew to such person or persons (not exceeding two) as shall in such order be named by the party or parties prosecuting such order, such infant, married woman, or other person or persons as aforesaid; and if such guardian, trustee, husband or such other person or persons as aforesaid shall refuse or neglect to produce or shew such infant, married woman, or such other person or persons on whose life or lives any such estate doth or shall depend, according to the directions of the said order; that then the said Court of Chancery is hereby authorized and required to order such guardian, trustee, husband or other person or persons, to produce such infant, married woman, or other person or persons so concealed, in the said Court of Chancery or otherwise, before commissioners to be appointed by the said court at such time and place as the court shall direct; two of which commissioners shall be nominated by the party or parties prosecuting such order at his, her or their costs and charges; and in case such guardian, trustee, husband, or other person or persons shall refuse or neglect to produce such infant, married woman, or other person or persons, so concealed in the Court of Chancery, or before such commissioners, whereof return shall be made by such commissioners, and that return filed in the office of the Register of the said Court of Chancery; then in any or either of the said cases, the said infant, married woman, or such other person or persons so concealed shall be taken to be dead; and it shall and may be lawful for any person or persons claiming any right, title or interest in reversion or remainder or otherwise after the death of such infant, married woman, or such other person or persons so concealed as aforesaid, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person or persons so concealed were actually dead.

posed death of any person which they believe to be concealed by their guardian, trustee, &c. how they shall proceed.

The Chancellor's duty to order such guardian, &c. to produce the infant, &c. concealed.

Guardian, trustee, &c. refusing to produce such infant, &c.

The Chancellor's further order thereon.

Guardian, trustee &c. again refusing, &c. to produce such infant, &c. such infant, &c. &c. shall be taken to be dead.

Lawful claimants, &c. may enter upon such lands, &c.

IV. *And be it further enacted by the authority aforesaid,* That if it shall appear to the said court by affidavit, that such infant, married woman, or other person or persons for whose life or lives such estate is holden, is or are, or lately was or were, at some certain place or places, beyond sea, or elsewhere out of this State in the said affidavit to be mentioned, it shall and may be lawful for the party or parties prosecuting such order as aforesaid, at his, her or their costs and charges to send one or both the said persons appointed by the said order to view such infant, married woman, or other person or persons for whose life or lives any such estate is or shall be holden; and in case such guardian, trustee, husband, or other person or persons concealing or suspected to conceal such person or persons as aforesaid, on whose life or lives any such estate doth or shall depend, shall refuse or neglect to produce, or procure to be produced to such person or persons appointed by the said order, a personal view of such infant, married woman, or other person or persons for whose life any such estate is or shall be holden; that then, and in such case the person or persons appointed by such order are hereby required to make a true return of such refusal or neglect to the said court; which return shall be filed in the office of the Register of the said court, and thereupon such infant, married woman, or other person or persons for whose life or lives any such estate is or shall be holden, shall be taken to be dead; and it shall and may be lawful for any person or persons claiming any right, title or interest in reversion, remainder or otherwise, after the death of such infant, married woman, or other person or persons for whose life or lives any such estate is or shall be holden, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person

Guardians, trustees, &c. persons beyond sea, or out of this State, neglecting or refusing to shew them to persons appointed, &c. they shall be taken to be dead.

Lawful claimants may enter the lands, &c.

Proviso.
When it shall appear afterwards that such persons were alive, any person having an estate determinable upon their lives, may maintain an action against those who received the profits.

Guardians, trustees, &c. holding estates determinable on the lives of others; when they shall be permitted to possess those estates and receive the profits thereof.

Where guardians, trustees, &c. of an estate, &c. are subject to pay damages.

person or persons for whose life or lives any such estate is or shall be holden, were actually dead. *Provided always,*

V. *And be it further enacted by the authority aforesaid,* That if it shall afterwards appear upon proof in any action to be brought, that such infant, married woman, or other person or persons for whose life or lives any such estate is or shall be holden, were alive at the time of such order made, that then it shall be lawful for such infant, married woman, guardian, trustee or other person or persons having any estate or interest determinable upon such life, or lives to re-enter upon the said lands, tenements or hereditaments, and for such infant, married woman, or other person or persons having any estate or interest determinable upon such life or lives, his, her or their executors, administrators or assigns to maintain any action or actions against those who since the said order received the profits of such lands, tenements or hereditaments or their executors or administrators, and therein to recover full damages for the profits of the same received, from the time that such infant, married woman, or other person or persons having any estate or interest determinable upon such life or lives were ousted of the possession of such lands, tenements or hereditaments. *Provided also,*

VI. *And be it further enacted by the authority aforesaid,* That if any such guardian, trustee, husband, or other person or persons holding or having any estate or interest determinable upon the life or lives of any other person or persons shall, by affidavit or otherwise to the satisfaction of the said court, make appear that he, she or they hath or have used his, her or their utmost endeavours to procure such infant, married woman, or other person or persons, on whose life or lives such estate or interest doth or shall depend, to appear in the said Court of Chancery or elsewhere according to the order of the said court in that behalf made, and that he, she or they cannot procure or compel such infant, married woman, or other person or persons so to appear, and that such infant, married woman, or other person or persons on whose life or lives such estate or interest doth or shall depend, is, are or were living at the time of such return made and filed as aforesaid, that it shall be lawful for such person or persons to continue in the possession of such estate and receive the rents and profits thereof for and during the infancy of such infant, and the life or lives of such married woman or other person or persons, on whose life or lives such estate or interest doth or shall depend, as fully as he, she or they might have done, if this act had not been made.

VII. *And be it further enacted by the authority aforesaid,* That every person who as guardian or trustee for an infant, and every husband seized in right of his wife only, and every other person having an estate determinable upon any life or lives who after the determination of such particular estates or interests, without the express consent of him, her or them, who are or shall be next and immediately entitled upon and after the determination of such particular estates or interests, shall hold over and continue in possession of any messuage, lands, tenements or hereditaments, shall be and are hereby adjudged to be trespassers; and that all and every person and persons, his, her and their executors and administrators who are or shall be entitled to such messuages, lands, tenements or hereditaments, upon or after the determination of such particular estates or interests, shall and may recover in damages against every such person or persons so holding over as aforesaid, and against his, her or their executors or administrators, the full value of the profits received during such wrongful possession as aforesaid.

C H A P. XI.

An ACT for rendering the proceedings upon Writs of Mandamus and Informations, in the nature of Quo Warranto more speedy and effectual. Passed the 6th of February, 1788.

Persons to whom any mandamus from the Supreme Court shall issue, shall make return.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any mandamus shall issue out of the Supreme Court, directed and delivered to any person or

or persons, who by the laws of this State are required to make a return to such writ of mandamus, such person or persons shall make his or their return to the first writ of mandamus. *Ann.*

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, as often as any writ of mandamus shall issue out of the said Supreme Court and a return shall be made thereunto, it shall and may be lawful to and for the person or persons suing or prosecuting such writ of mandamus, to plead to or traverse all or any the material facts contained within the said return, to which the person or persons making such return shall reply, take issue or demur; and such further proceedings, and in such manner, shall be had therein for the determination thereof, as might have been had if the person or persons suing such writ had brought his or their action on the case for a false return; and if any issue shall be joined on such proceedings, the person or persons suing such writ shall and may try the same in such place as an issue joined in such action on the case should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by *nil dicet*, or for want of a replication or other pleading, he or they shall recover his or their damages and costs, in such manner as he or they might have done in such action on the case as aforesaid; and such damages and costs shall and may be levied by *fieri facias* or *capias ad satisfaciendum*, as in other cases, and a peremptory mandamus shall be granted without delay for him or them for whom judgment shall be given as might have been, if such return had been adjudged insufficient; and in case judgment shall be given for the person or persons making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid. *Provided always,*

The prosecutor may traverse the material facts in said return, and the person making such return, may reply &c. &c. Such further proceedings as in actions on the case.

It. It.

Where verdict shall be found for the person suing such writ, he shall recover his damages, &c. to be levied by *fieri facias*, &c.

Judgment given for the persons making such return, to recover costs.

III. *And be it further enacted by the authority aforesaid,* That if any damages shall be recovered by virtue of this act against any such person or persons making such return to such writ as aforesaid, he or they shall not be liable to be sued in any other action or suit, for the making such return; any law, usage or custom to the contrary thereof notwithstanding.

Where persons making returns shall not be liable to suits.

IV. *And be it further enacted by the authority aforesaid,* That in case any person or persons shall usurp, intrude into or unlawfully hold and execute any office or franchise within this State, it shall and may be lawful to and for the Attorney General, with the leave of the said Supreme Court, to exhibit one or more information or informations in the nature of a *quo warranto* at the relation of any person or persons desiring to sue or prosecute the same, who shall be mentioned in such information or informations to be the relator or relators against such person or persons so usurping, intruding into, or unlawfully holding and executing any such office or franchise, and to proceed therein in such manner as is usual in cases of informations in the nature of a *quo warranto*; and if it shall appear to the said Supreme Court that the several rights of divers persons to the same office or franchise may properly be determined on one information, it shall and may be lawful for the said Supreme Court to give leave to exhibit one such information against several persons in order to try their respective rights to such office or franchise; and such person or persons, against whom such information or informations in the nature of a *quo warranto* shall be sued or prosecuted, shall appear and plead as of the same term in which the said information or informations shall be filed, unless the said Supreme Court shall give further time to such person or persons, against whom such information or informations shall be exhibited to plead; and such person or persons who shall sue or prosecute such information or informations in the nature of a *quo warranto*, shall proceed thereupon with the most convenient speed that may be; any law or usage to the contrary thereof notwithstanding.

Persons intruding into, &c. any offices &c. in this State to be prosecuted by the Attorney General.

It.

Where several persons may be included in one information, to try their respective rights to an office, &c.

How they shall appear and plead.

V. *And be it further enacted by the authority aforesaid,* That in case any person or persons, against whom any information or informations in the nature of a *quo warranto*, shall in any of the said cases be exhibited in the said Supreme Court, shall be found or adjudged guilty of an usurpation or intrusion into or unlawfully holding and executing any of the said offices or franchises, it shall and may be lawful to and for the said Supreme Court, as well to give judgment of ouster, against such person or persons of

Persons found guilty of usurping, &c. any office or franchise, to be ousted by judgment of the Supreme Court and fined.

Relators to recover costs.

Judgment given for the defendant.

Relators to pay costs.

Sufficient time to be allowed by the Supreme Court to certain persons to make return, plead, reply, &c.

and from any of the said offices or franchises, as to fine such person or persons respectively, for his or their usurping, intruding into or unlawfully holding and executing any such office or franchise; and also to give judgment, that the relator or relators in such information named shall recover his or their costs of such prosecution; and if judgment shall be given for the defendant or defendants in such information, he or they for whom such judgment shall be given, shall recover his or their costs therein expended against such relator or relators; such costs to be levied in manner aforesaid.

VI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Supreme Court to allow to such person or persons, respectively, to whom any writ of mandamus shall be directed, or against whom any information in the nature of a *quo warranto* in any of the cases aforesaid, shall be sued or prosecuted, or to the person or persons who shall sue or prosecute the same, such convenient time respectively to make a return, plead, reply, rejoin or demur, as to the said Supreme Court shall seem just and reasonable; any thing herein contained to the contrary thereof in any wise notwithstanding.

C H A P. XII.

An ACT concerning Idiots, Lunatics, and Infant Trustees, Passed the 6th of February, 1788.

The Chancellor to have the care of all idiots and their property, &c. &c.

which upon their death shall descend to their heirs, &c.

The Chancellor to have the care of all lunatics and their property,

which is to be restored to them on their recovery from their lunacy, otherwise to descend to heirs, &c.

Recital.

Persons under the age of 21 years, &c. &c. by the direction of the Court of Chancery may convey lands, &c.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Chancellor for the time being shall have the care and provide for the safe keeping of all idiots and of their lands and tenements, goods and chattels; and that they may live and be competently maintained by and out of their goods and chattels, and the profits of their lands and tenements respectively; and that no waste or destruction of their lands or tenements be done or permitted, and such lands and tenements shall in no wise be aliened, but shall, upon the death of such idiot, descend and go to his heirs, and the residue of the said goods, chattels and profits, if there be any, shall go to and be distributed according to law, among the next of kin of such idiot.

II. *And be it further enacted by the authority aforesaid,* That the Chancellor for the time being shall have the care and provide for the safe keeping of all lunatics and of their lands and tenements, and goods and chattels; and that they and their household, if they have any, may live and be competently maintained by and out of their goods and chattels, and the profits of their lands and tenements respectively, and that no waste or destruction of their lands or tenements be done or permitted, and such lands and tenements shall in no wise be aliened, but shall, together with the residue, of the goods, chattels and profits, if there be any, be restored to such lunatic if he comes to his right mind; and if he dies in his lunacy, his lands and tenements shall descend and go to his heirs, and the residue of the said goods, chattels and profits shall go to and be distributed according to law, among the next of kin of such lunatic. *And whereas,* many inconveniences do and may arise, by reason that persons under the age of twenty-one years having estates in lands tenements or hereditaments, only in trust for others, or by way of mortgage, cannot (tho' by the direction of the *cestuyque* trust or mortgagor) convey any sure estate in any such lands, tenements or hereditaments to any other person or persons; for remedy whereof

III. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for any such person under the age of twenty one years, by the direction of the Court of Chancery, signified by an order made upon hearing all parties concerned, on the petition of the person or persons for whom such infant or infants shall be seised or possessed in trust, or of the mortgagor or mortgagors, or guardian or guardians of such infant or infants, or person or persons intitled to the monies secured by or upon any lands, tenements or hereditaments whereof any infant or infants are or shall be

be seised or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof to convey and assure any such lands, tenements or hereditaments, in such manner as the said Court of Chancery shall, by such order, so to be obtained, direct, to any other person or persons; and such conveyance or assurance so to be had and made as aforesaid, shall be as good and effectual in law to all intents and purposes whatsoever, as if the said infant or infants were at the time of making such conveyance or assurance, of the full age of twenty-one years; any law, usage or custom to the contrary notwithstanding.

which conveyances shall be effectual in the law.

IV. *And be it further enacted by the authority aforesaid,* That all and every such infant and infants, being only trustee or trustees, mortgagee or mortgagees as aforesaid shall and may be compelled, by such order so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust-estates or mortgages.

Where infants shall be compelled to make such conveyances.

CHAP. XIII.

An ACT for ascertaining the Measure of Land. Passed the 7th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That an acre of land shall contain one hundred and sixty square perches or rods; each perch or rod being in length five yards and one half of one yard; and each yard three feet; and each foot twelve inches; so that when an acre of land shall be sixteen rods in length it shall be ten rods in breadth.

Measure of land ascertained.

CHAP. XIV.

An ACT for the Relief of Cities and Towns, from such Charges as may arise from Bastard Children born within the same. Passed the 7th of February, 1788.

WHEREAS, bastards or children begotten and born out of lawful matrimony, are often left to be kept and provided for at the charge of the respective cities or towns in which the same are so born, to the great burden of the same cities or towns; for remedy whereof

Preamble, respecting bastard children.

BE it Enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That any two Justices of the Peace of any city or of any county, one whereof residing in or near the town within which such bastard shall be born, upon examination of the cause and circumstance shall and may by their discretion take order for the better relief of every such city or town in part or in all, and shall and may likewise by like discretion take order for the keeping of every such bastard child, by charging such mother or reputed father with the payment of money weekly, or other sustentation for the relief of such child in such wise as they shall think meet and convenient; and if after the same order by them subscribed under their hands, the mother or reputed father, upon notice thereof, shall not for his or her part observe and perform the said order, that then every such party so making default in not performing the said order, shall be committed to the house of correction or (for want thereof) to the common gaol of such city or county, there to remain without bail or main-prise, except he or she shall put in sufficient surety to perform the said order, or else personally to appear at the next General Sessions of the Peace, to be holden in and for the city or county where such order shall be taken; and also to abide such order as the said Justices of the Peace or the major

How the Justices are to take order for the relief of the places where such children are born and for their keeping.

Penalty on defaulters.

major part of them in their said sessions shall take in that behalf (if they then and there shall take any) and that if at the said sessions the said Justices shall take no other order, then to abide and perform the order before made as aforesaid.

When the Justices shall apprehend the father of a bastard child.

II. *And be it further enacted by the authority aforesaid,* That if any woman shall be delivered of a bastard child which shall be chargeable or likely to become chargeable to any city or town, or shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable to any city or town, and shall in either of such cases, in an examination to be taken in writing, upon oath, before any one or more Justice or Justices of the Peace of any city, or of any county wherein such town shall lie, charge any person with having gotten her with child, it shall and may be lawful to and for such Justice or Justices, upon application made to him or them, by the overseers of the poor of such city or town, or persons acting as such, or by any one of them, to issue out his or their warrant or warrants for the immediate apprehending such person so charged as aforesaid, and for bringing him before such Justice or Justices, or before any other of the Justices of the Peace of such city or county; and the Justice or Justices before whom such person shall be brought, is and are hereby authorized and required to commit the person so charged as aforesaid, to the house of correction or common gaol of such city or county, unless he shall give security to indemnify such city or town, or shall enter into a recognizance with sufficient surety with condition to appear at the next General Sessions of the Peace, to be holden for such city or county and to abide or perform such order or orders as shall be made in pursuance of this act. *Provided nevertbeless,*

Who shall be committed, unless he gives security to indemnify the place or enter into a recognizance.

III. *And be it further enacted by the authority aforesaid,* That if the woman so charging any person as aforesaid, shall happen to die or be married before she shall be delivered, or if she shall miscarry of such child, or shall appear not to have been with child at the time of her examination, then and in any of the said cases such person shall, at the next General Sessions of the Peace to be holden for such city or county be discharged from his recognizance or immediately released out of custody by warrant under the hand and seal or hands and seals of any one or more Justice or Justices of the Peace of such city or of any one or more Justice or Justices of such county, residing in or near such town. *Provided also,*

When the said father shall be discharged from his recognizance, or released.

IV. *And be it further enacted by the authority aforesaid,* That upon application made by any person who shall be committed to any house of correction or gaol by virtue of this act or by any person in his behalf, to any one or more Justice or Justices of such city, or to any one or more Justice or Justices of such county, residing in or near such town, such Justice or Justices is and are hereby authorized and required to summon the overseer or overseers of the poor of the city or town to appear before him or them at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged; and if no order shall appear to have been made in pursuance of this act, within six weeks after such woman shall have been delivered, such Justice or Justices shall and may discharge him from his imprisonment in such house of correction or gaol to which he shall have been committed. *Provided always,*

The mode of discharging from confinement on application.

V. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any Justice or Justices of the Peace, to send for any woman whatsoever, in order to her being examined concerning her pregnancy or supposed pregnancy, until one month after she shall be delivered, or to compel any woman before she shall be delivered to answer to any question relating to her pregnancy. *And whereas,* the putative fathers and lewd mothers of bastard children, often run away out of the city or town, and sometimes out of the county, and leave the said bastard children upon the charge of the city or town where they are born, although such putative father or mother have estate sufficient to discharge such city or town; *Therefore*

If the order shall not be made in six weeks after delivery of the woman, the prisoner to be discharged.

Justices not to examine women touching bastardy until one month after delivery.

Preamble.

VI. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for the overseers of the poor of such city or town, where any bastard child shall be born, to apply to any two Justices of the Peace of the city or county where the estate real or personal, or any part thereof, of such putative father, or lewd mother may be, and by warrant under the hands and seals of the said two Justices (who are hereby

herby authorised and required to issue the same) to seize and take the goods and chattels and to let out and receive the annual rents and profits of the lands and tenements of such putative father or lewd mother, so absconding as aforesaid, for and towards the bringing up and providing for such bastard child so left as aforesaid; and so soon as the said seizure shall be allowed of and confirmed by the Justices in their General Sessions of the Peace, it shall and may be lawful for the overseers of the poor of the city, town or place, or any two of them, from time to time and as often as the case may require, to sell and dispose of so much and so many of the said goods and chattels at public vendue to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said sessions, and to apply the money arising thereby, towards the bringing up and providing for such bastard child so left as aforesaid. And further that the said overseers of the poor shall be accountable to the Justices of the Peace in their said General Sessions for all such monies as shall or may arise by every such sale or sales, or to be received by them for the rents and profits of such lands or tenements.

The goods and chattels, &c. of the absconding father or mother of bastard children to be applied to their use.

VII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall be sued for any matter or thing which he or they shall do in execution of this act, he or they may plead the general issue, and give the special matter in evidence: And if a verdict shall pass for the defendant or defendants, or if the plaintiff shall be nonsuited or discontinue his suit, the defendant or defendants shall recover treble costs; and shall have the like remedy for the same as any defendant hath in other cases by law.

Persons sued for executing this act, to plead the general issue, &c. &c.

VIII. *And be it further enacted by the authority aforesaid,* That the term town made use of in this act, shall be descriptive of, equivalent to, and be understood to comprehend borough, township, town, manor, parish, district, precinct and place, respectively.

The term town in this act to signify, borough, township, &c. &c.

CHAP. XV.

An ACT concerning Apprentices and Servants. Passed the 6th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That no master or mistress, or other person or persons shall, after the passing of this act, compel or cause any apprentice or journeyman, by oath or bond, heretofore made, or hereafter to be made, or otherwise, that he or she, after his or her apprenticeship or term expired, shall not set up, keep or occupy any shop, house or cellar, and therein use or exercise such his or her said art, craft, mystery, profession, trade, employment, or manual occupation, nor by any means exact or take of any such apprentice or any journeyman, nor any other, setting up, occupying, using or exercising, for him or themselves, nor of any other persons for them, after his or their said years or term expired, any sum of money or other thing whatsoever, for using or exercising the same, upon pain to forfeit for every time that they or any of them shall offend contrary to this act, the sum of *forty pounds*; the one half thereof to the People of this State, and the other half to such person or persons as will sue for the same; to be recovered with costs of suit by action of debt, bill, plaint or information, in any Court of Record having cognizance thereof; and that all and every bond or other security given or entered into, contrary to the true intent and meaning of this act shall be void.

Penalty of 40l. on masters, &c. mistresses for compelling apprentices, &c. to come under certain obligations, and for exacting, &c. from them any money, &c. the penalty of 40l.

to be recovered with costs.

And whereas, doubts have arisen whether any person within the age of twenty-one years, and bounden to serve as a clerk, apprentice, or servant shall be holden, accepted and taken as a clerk, apprentice or servant; for removing such doubts,

Preamble.

H

H. Be

Apprentices may be bound to serve until the age of 21 years.

Proviso, respecting Indian children.

Poor children how to be bound apprentices, &c. until males shall be 21 years and females 18 years old.

Apprentices, &c. refusing to do their duty, how to be compelled thereto.

The age of an apprentice or servant to be mentioned in his indenture,

II. *Be it further enacted by the authority aforesaid,* That all and every such person or persons, that at any time or times hereafter, shall be bounden by indenture of his or her own free will and accord, and by and with the consent of his or her father, or in case of the death of his or her father, by and with the consent of his or her mother or guardian, to be expressed in such indenture, and signified by such parent or guardian sealing and signing the same indenture, and not otherwise, or by the Justices and overseers of the poor, as is herein after directed and prescribed, to serve as a clerk, apprentice or servant in any art, craft, mystery, science, profession, trade, employment, manual occupation or labor, in manner and form aforesaid, until he or she shall be of the age of twenty-one years, or for any shorter time, although the same clerk, apprentice or servant shall be within the age of twenty-one years at the time of the making of his or her indenture, shall be bounden to serve for the years or term in his or her indentures contained, as amply and largely, to every intent, as if the same clerk, apprentice or servant was of full age at the time of making such indenture; any law, usage or custom to the contrary notwithstanding: *Provided always,* That any child of any Indian woman shall not be so bound or indented as aforesaid, except in the presence and with the consent of a Justice of the Peace, a certificate of such consent being also signed by the Justice, and filed with the clerk of the town or place in which such indenture shall be executed.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the overseers of the poor of any city or town within this State, by and with the consent of the Justices of the Peace of the same county or any two of them residing in or near such town, or in the cities of New-York, Albany and Hudson, by and with the consent of the Mayor, Recorder and Aldermen, or any two of them, to bind out any child who is or shall be chargeable, or whose parents are or shall become chargeable to the city or town wherein they respectively inhabit, or who shall beg for alms, to be apprentices or servants according to their degree and ability, where they shall see convenient, till such child or children, if male, shall respectively arrive or come to the age of twenty-one years, and if female to the age of eighteen years; and that the indentures or articles of agreement for binding any such infant shall be as effectual to all intents and purposes as if such infant were of full age, and by indenture of covenant bound him or herself.

IV. *And be it further enacted by the authority aforesaid,* That if any person who shall bind him or herself by and with the consent of his or her parent or other guardian as aforesaid, or who shall be bound by the overseers of the poor and Justices or Mayor, or Recorder and Aldermen, or any two of them as aforesaid, to serve as an apprentice or servant in the manner in this act above directed and prescribed, shall refuse so to do, that then upon complaint of the master or mistress to whom such apprentice or servant is or shall be bound as aforesaid, to one Justice of the Peace of the county wherein the said refusal is or shall be made, or to the Mayor or Recorder, or any one of the Aldermen of any city, if any such refusal shall be there, they and each of them shall have full power and authority by this act, by warrant under hand and seal, or otherwise, to send for the same person so refusing, and the said Justice or the said Mayor or Recorder, or Alderman respectively, shall have power and authority by virtue of this act, if the said person refuse to serve as an apprentice or servant, to commit him or her unto ward in the bridewell or house of correction, if any there be, or if there be no bridewell, or house of correction, in the gaol of the city or county wherein such refusal shall take place, there to remain until he or she be contented and will serve as an apprentice or servant should serve, according to the true intent and meaning of this act. And to the end that the time of the continuance of the service of such apprentice or servant may the more plainly and certainly appear, the age of every such infant so to be bound apprentice or servant shall be mentioned and inserted in his or her indentures: And where the binding is by the overseers of the poor, by and with the consent of two Justices of the Peace, or Mayor, Recorder and Aldermen as aforesaid, the same Justices of the Peace or Mayors, Records, and Aldermen shall, as fully as they can, inform themselves of such infant's age, and from such information shall insert the same in the said indentures; and the age of such infant

fant so inserted and mentioned in the said indentures (in relation to the continuance of his or her service) shall be taken to be his or her true age without any further proof thereof.

V. *And be it further enacted by the authority aforesaid,* That all and every sum and sums of money which shall be given, paid, contracted or agreed for, with, or in relation to every clerk or apprentice, which shall after the passing of this act, be put or placed to or with any master or mistress, to learn any art, craft, mystery, science, profession, trade, employment or manual occupation, shall be inserted in the indentures so to be executed by such clerk or apprentice as aforesaid.

and the money paid with any clerk or apprentice shall also be mentioned in the indenture.

VI. *And be it further enacted by the authority aforesaid,* That all indentures, covenants, promises and bargains of or for the having, taking or keeping of any clerk or apprentice hereafter to be made or taken, otherwise than is by this act limited, ordained and appointed, shall be clearly void in law to all intents and purposes, as against such clerk or apprentice only.

Where indentures shall be void.

VII. *And be it further enacted by the authority aforesaid,* That no deed, contract, agreement or writing whatsoever made or to be made for binding any person as a clerk, apprentice or servant as aforesaid, after the passing of this act, shall be deemed or adjudged to be void and of no effect by reason or on account of such deed, contract, agreement or writing not being indented only.

No deed, contract &c. for binding any person shall be void on account of its not being indented.

And whereas, the emigration of poor persons from Europe hath conduced greatly to the settlement of this State while a colony; and whereas doubts have arisen tending to the discouragement of further importation of such poor persons; *therefore,*

Recital.

VIII. *Be it further enacted by the authority aforesaid,* That every contract already made, or hereafter to be made, by any infant or other person coming from beyond sea, executed in the presence of two witnesses and acknowledged by the servant before any Mayor, Recorder, Alderman or Justice of the Peace, shall bind the party entering into the same for such term, and for such services as shall be therein specified: And that every assignment of the same executed before two credible subscribing witnesses shall be effectual to transfer the same contract for the residue of the term therein mentioned: But that no contract shall bind any infant longer than until his or her arrival to the full age of twenty-one years; excepting such as are or shall be bound in order to raise money for the payment of their passages, who may be bound until the age of twenty-four years, provided the term of such service shall not exceed four years in the whole.

Contracts made beyond sea, obligatory

assignments thereof.

No infant to be bound longer than till the age of 21 years.

Exception.

IX. *And be it further enacted by the authority aforesaid,* That if any master or mistress shall be guilty of any misusage, refusal of necessary provisions or cloathing, cruelty or other ill treatment, so that his or her said clerk, apprentice, or servant shall have any just cause to complain, or the said clerk, apprentice, or servant be guilty of any misdemeanor, miscarriage, or ill behaviour, or do not his or her duty to his or her master or mistress; then the said master or mistress, or the said clerk, apprentice or servant being aggrieved, and having just cause of complaint, shall repair unto one Justice of the Peace within the county, or to the Mayor or Recorder or any one of the Aldermen of the city, where the said master or mistress dwelleth, who shall by his wisdom and discretion take such order and direction between the said master or mistress and his or her clerk, apprentice or servant, as the equity of the cause shall require; and if for want of a good conformity in the said master or mistress, or clerk, apprentice or servant, the said Justice of the Peace, or Mayor Recorder, or Alderman, cannot compound or agree the matter, between such master or mistress, and his or her clerk, apprentice or servant, then the said Justice, or the said Mayor, or Recorder, or Alderman shall take a recognizance of the said master or mistress, in such sum as he shall think proper, to appear at the next General Sessions of the Peace then to be holden in the said county or city, where the said master or mistress doth reside, and upon his or her appearance and hearing of the matter before the Justices at the said General Sessions of the Peace, if it be thought meet unto them to discharge the said clerk, apprentice or servant of his or her clerkship, apprenticeship or service; that then the said Justices or three of them at the least, shall have power by virtue of this act, by rule or order of

How apprentices, &c. are to be relieved from the ill-usage of masters, &c. and masters from the misdemeanor of apprentices, &c.

Whereas our
given with clerks or
apprentices shall be
refunded.

Delinquent clerks,
apprentices and ser-
vants how punished.

Preamble,
respecting the dif-
ference of the courts,
&c. from masters &
mistresses.

Justices to appoint
a convenient place,

and may discharge
apprentices without
fee or reward

Where apprentices
or servants are to be
punished.

Preamble.

Apprentices or
servants absenting
themselves from
service, when found
to serve double the
time of his absence,
unless he makes sa-
tisfaction otherwise.

of the said court, to discharge the said clerk, apprentice or servant, of his or her clerkship, apprenticeship or service, and to order all such part of such sum and sums of money, as shall have been given, paid, contracted, or agreed for, with or in relation to every such clerk, apprentice or servant as they shall judge meet and proper, to be refunded and paid back to the person or persons who paid the same, his or her executors or administrators; and that such order so entered in the minutes of the said court shall be a sufficient discharge for the said clerk, apprentice or servant against his or her master or mistress, and his or her executors and administrators, the said indenture or any law or custom to the contrary notwithstanding. And if the default shall be found to be in the clerk, apprentice or servant, then the said Justices shall cause such due correction and punishment to be administered unto him or her as by their wisdom and discretion shall be thought meet.

And whereas in some cases, as well by reason of the distance of the place of residence of the said masters or mistresses from the places where the respective Courts of General Sessions of the Peace are holden, as for other causes, it is very inconvenient that the final decision of differences between masters or mistresses and their apprentices or servants should be deferred till the setting of the next General Sessions of the Peace for the city or county wherein such master or mistress reside: For remedy whereof

X. *Be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for any three or more Justices in any county, or for the Mayor, Recorder and Aldermen, or any three or more of them, upon any complaint or application by any apprentice or servant, upon whose binding out no sum of money was paid, touching or concerning any misusage, refusal of necessary provision or cloathing, cruelty or other ill treatment, of or towards such apprentice or servant, by his or her master or mistress, by precept under their hands and seals, to summon such master or mistress to appear before such Justice, or such Mayor, Recorder and Aldermen or any two or more of them, at a reasonable time and place to be named in such summons; and such Justices, Mayor, Recorder, and Aldermen, shall and may examine into the matter of such complaint; and upon proof thereof made upon oath to their satisfaction (whether the master or mistress be present or not, if service of the summons be also upon oath proved) the said Justices or Mayor, Recorder and Aldermen may discharge such apprentice or servant by warrant or certificate under their hands and seals; for which warrant or certificate no fee shall be paid.

XI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for such Justices, or Mayor, Recorder and Aldermen, or any two or more of them, upon application or complaint made upon oath, by any master or mistress, against any such apprentice or servant, touching or concerning any misdemeanor, mis-carriage, or ill behaviour in such his or her service, to hear, examine and determine the same, and to punish the offender by commitment to the house of correction (if any there be) or to the common gaol of the county or city, there to remain and be corrected and held to hard labour for a reasonable time, not exceeding one kalender month, or otherwise by discharging such apprentice or servant in manner and form before mentioned.

And whereas, many persons are taken as apprentices or servants when they are very young, and for several years of their apprenticeships or service, are rather a burthen than otherwise to their masters or mistresses. *And whereas* it frequently happens that such apprentices or servants, when they might be expected to be useful to their masters or mistresses, absent themselves from their service: *And whereas*, the laws in being are not sufficient to prevent these inconveniences, for remedy whereof,

XII. *Be it further enacted by the authority aforesaid*, That from and after the passing of this act, if any apprentice or servant shall absent him or herself from his or her master's or mistresses service, before the term of his or her apprenticeship or service shall be expired, every such apprentice or servant, shall at any time or times thereafter, whenever he or she shall be found, be compelled to serve his or her said master or mistress, for double the time he or she shall have so absented him or herself from such service, unless he or she shall make satisfaction to his or her master or mistress for the loss he

he or she shall have sustained by such absence from his or her service; and so from time to time as often as any such apprentice or servant shall without leave of his or her master or mistress absent himself or herself from his or her service before the term of his or her contract shall be fulfilled. *Provided always,*

XIII. *And be it further enacted by the authority aforesaid,* That nothing in this clause of this act shall extend to any apprentice whose master or mistress shall have received with such apprentice, any sum or sums of money to learn such art, craft, mystery, profession, trade, or employment; and also, that no apprentice or servant shall be compelled to serve for any time or term, or to make any satisfaction to any master or mistress, after the expiration of three years next after the end of the term for which such apprentice or servant shall have contracted to serve; any thing herein contained to the contrary notwithstanding. *Provided also,*

Exemption in favor of certain apprentices, &c. &c.

XIV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall think himself, herself or themselves aggrieved by such determination, order or warrant of such Justice or Justices, Mayor or Recorder and Aldermen as aforesaid (except an order of commitment) he, she, or they may appeal to the next General Sessions of the Peace, to be holden in and for the county, city, or place where such determination or order shall be made; such person or persons giving six days notice of his, her or their intention of bringing such appeal, and of the cause and matter thereof to such Justice or Justices of the Peace, Mayor, Recorder or Aldermen and the parties concerned, and entering into a recognizance, within three days after such notice, before some Justice of the Peace, or the Mayor, or Recorder, or one of the Aldermen for such county, city or place, with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by the Justices at such General Sessions; which said Justices at their said sessions, upon due proof upon oath of such notice being given, and of entering into such recognizances as aforesaid, shall and are hereby empowered and directed to proceed in, and hear and finally determine the causes and matters of all such appeals, and to give and award such costs to any of the respective parties, appellant or respondent, as they in their discretion shall judge proper, and reasonable, not exceeding *four pounds*; the same to be levied by distress and sale of the goods and chattels of such person or persons against whom such determinations shall be made, and that their judgments and orders therein shall be final and conclusive to all parties concerned. *Provided also,*

Proviso.

Appeals allowed to the General Sessions of the Peace.

XV. *And be it further enacted by the authority aforesaid,* That no writ of certiorari or other process shall issue or be issuable to remove into the Supreme Court any proceedings whatsoever had in pursuance of this act, before any Justice or Justices of the Peace, Mayor, or Recorder, or Alderman, or any of them, or before any Court of General Sessions of the Peace, until after determination and final judgment therein had by, or in such Court of General Sessions of the Peace.

Proviso. When the proceedings are removable into the Supreme Court,

CHAP. XVI.

An ACT against buying and selling of Offices. Passed the 7th of February, 1788.

FOR the avoiding of corruption in officers, and to the intent that persons worthy and meet to be advanced to places where justice is to be administered, or any service of trust executed and no other, should hereafter be preferred to the same;

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same; That if any person or persons, at any time hereafter, bargain or sell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive, have or take any money, fee, reward or any other profit, directly or indirectly, or take any promise, agreement, covenant, bond or any assurance to receive or have any money, fee or reward, or other profit, directly or indirectly, for any office or offices, or for the

Persons selling offices, &c. to lose them, and the purchasers, &c. disabled from holding the said offices, &c.

the deputation of any office or offices or any part of any of them, or to the intent that any person should have, exercise or enjoy any office or offices; or the deputation of any office or offices or any part of any of them; then all and every such person and persons who shall so bargain or sell any such office or offices, deputation or deputations, or who shall take any money, fee, reward, or profit, for any such office or offices, deputation or deputations of any such office or offices, or any part of any of them, or who shall take any promise, agreement, covenant, bond or assurance for any money, fee, reward or profit to be given for any such office or offices, deputation or deputations of any such office or offices, or any part of any of them, shall not only lose and forfeit all his and their right and estate which such person or persons shall then have of, in or to such office or offices, deputation or deputations, or any part of any of them, or of, in, or to the gift or nomination of such office or offices, deputation or deputations, for the which office or offices, or for the deputation or deputations of which office or offices, or for any part of any of them, any such person or persons shall so make any such bargain or sale, or take or receive any sum of money, fee, reward or profit, or any promise, agreement, covenant, bond, or assurance to have or receive any money, fee, reward, or profit: *But also*, all and every such person or persons, who shall give or pay any sum of money, reward or fee, or shall make any promise, agreement, covenant, bond, or assurance for any such office or offices, or for the deputation or deputations of any such office or offices or any part of any of them shall immediately, by and upon the same fee, money, or reward given or paid, or upon any such promise, agreement, covenant, bond or assurance had or made for any fee, sum of money, or reward to be paid or given as aforesaid, be adjudged a disabled person in the law, to all intents and purposes, to have exercise or enjoy the said office or offices, deputation or deputations, or any part of any of them, for the which such person or persons shall so give or pay any sum of money, fee or reward, or make any promise, agreement, covenant, bond, or other assurance to give or pay any sum of money fee or reward. *And further*, that all and every such bargains, sales, promises, agreements, covenants, bonds, and assurances as be before specified, shall be void to and against him and them by whom any such bargain, sale, promise, agreement, covenant, bond or assurance shall be had or made. *Provided always*,

Certain bargains,
&c. to be void.

Proviso.

All judgments,
acts, &c. of offend-
ers, prior to their
removal from office,
to be good in law.

II. *And be it further enacted by the authority aforesaid*, That if any person or persons do offend in any thing contrary to the tenor and effect of this statute, yet notwithstanding all judgments given, and all other act and acts executed or done by any such person or persons, so offending by authority or colour of the office or deputation, which ought to be forfeited or not occupied, or not enjoyed by the person so offending as aforesaid, after the said offence so by such person committed or done and before such person so offending for the same offence be removed from the exercise, administration and occupation of the said office or deputation, shall be and remain good and sufficient in law, to all intents, constructions and purposes, in such like manner and form as the same shall or ought to have remained and been, if this statute had not been made.

CHAP. XVII.

An ACT for preventing and punishing Perjury and Subornation of Perjury, and for compelling the attendance of Witnesses. Passed the 7th of February, 1788.

Persons procuring
or suborning wit-
nesses to commit
perjury.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all and every person and persons, who shall, unlawfully and corruptly procure or suborn any witness or witnesses, by letters, rewards, promises, menaces, threats, or by any other sinister or unlawful labour or means whatsoever, to commit any wilful and corrupt

rupt perjury in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint, information or indictment, in any wise touching or concerning any lands tenements or hereditaments, or any goods, chattels, debt, damages, or offence, in the Court of Chancery, or in the Court of Admiralty, or in the Court of Probates, or in any Court of Record, or before any Justice of the Peace, Mayor, Recorder, or Alderman, or shall, unlawfully and corruptly procure or suborn any witness or witnesses, who shall be sworn to testify in *perpetuam rei memoriam*, that then every such offender shall for his or her said offence, being thereof lawfully convicted or attainted, lose and forfeit the sum of *one hundred pounds*: And if any such offender being so convicted or attainted as aforesaid, shall not have any goods or chattels, lands or tenements to the value of *one hundred pounds*, that then every such person so being convicted or attainted of any of the offences aforesaid, shall for his said offence, suffer imprisonment for the space of *six months*, without bail or mainprize, and shall stand upon the pillory the space of *one whole hour* in some town or public place in the county or city where the offence was committed. And further, that no person being so convicted or attainted shall thenceforth be received as a witness to depose or be sworn in any matter or cause whatsoever, until the judgment given against him or her shall be reversed, by attaint or otherwise.

To forfeit 100l.

or be imprisoned 6 months and stand upon the pillory.

II. And be it further enacted by the authority aforesaid, That if any person, either by the subornation, unlawful procurement, sinister persuasion, or means, of any other, or by his or her own act, consent or agreement, wilfully and corruptly commit any manner of wilful perjury by his or her deposition in any of the courts aforesaid, or before any person or persons having competent authority to take the same and administer such oath, or on being examined in *perpetuam rei memoriam*, then he or she so offending and being thereof duly convicted or attainted, shall, for his or her said offence, lose and forfeit *one hundred pounds*, and be imprisoned *six months* without bail or mainprize: And such person so offending from thenceforth shall not be received as a witness to depose or be sworn in any matter or cause whatsoever, until the judgment given against him or her shall be reversed by attaint or otherwise. And further, if any such offender being so convicted or attainted as aforesaid, shall not have any goods or chattels, lands or tenements, to the value of *one hundred pounds*, that then every such offender so being convicted or attainted, shall be set on the pillory for the space of *one hour* in some town or public place in the same county or city where the said offence shall be committed.

Persons convicted of perjury,

to forfeit 100l. and be imprisoned 6 months,

for want of goods, &c. to be set on the pillory.

III. And be it further enacted by the authority aforesaid, That one moiety of the said forfeiture shall be to the use of the People of this State, and the other moiety to such person or persons as shall be grieved, hindered or molested by reason of any the offence or offences aforesaid, who will sue for the same, by action of debt, bill, plaint or information in any Court of Record.

Forfeiture how applied.

IV. And be it further enacted by the authority aforesaid, That in every information or indictment to be prosecuted against any person for wilful and corrupt perjury, either at the common law or upon this act, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath was taken (averting such court or person or persons to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned without setting forth the bill, answer, information, indictment, declaration or any part of any record or proceedings either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed; any law, usage or custom to the contrary notwithstanding.

Mode of prosecution for perjury.

V. And be it further enacted by the authority aforesaid, That in every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, either at the common law, or upon this act, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration or any part of any record or proceedings, either in law or equity, and without setting forth

Mode of prosecution for subornation of perjury.

Certain bargains,
&c. to be void.

Proviso.

All judgments,
acts, &c. of offend-
ers, prior to their
removal from office,
to be good in law.

the deputation of any office or offices or any part of any of them, or to the intent that any person should have, exercise or enjoy any office or offices; or the deputation of any office or offices or any part of any of them; then all and every such person and persons who shall so bargain or sell any such office or offices, deputation or deputations, or who shall take any money, fee, reward, or profit, for any such office or offices, deputation or deputations of any such office or offices, or any part of any of them, or who shall take any promise, agreement, covenant, bond or assurance for any money, fee, reward or profit to be given for any such office or offices, deputation or deputations of any such office or offices, or any part of any of them, shall not only lose and forfeit all his and their right and estate which such person or persons shall then have of, in or to such office or offices, deputation or deputations, or any part of any of them, or of, in, or to the gift or nomination of such office or offices, deputation or deputations, for the which office or offices, or for the deputation or deputations of which office or offices, or for any part of any of them, any such person or persons shall so make any such bargain or sale, or take or receive any sum of money, fee, reward or profit, or any promise, agreement, covenant, bond, or assurance to have or receive any money, fee, reward, or profit: *But also*, all and every such person or persons, who shall give or pay any sum of money, reward or fee, or shall make any promise, agreement, covenant, bond, or assurance for any such office or offices, or for the deputation or deputations of any such office or offices or any part of any of them shall immediately, by and upon the same fee, money, or reward given or paid, or upon any such promise, agreement, covenant, bond or assurance had or made for any fee, sum of money, or reward to be paid or given as aforesaid, be adjudged a disabled person in the law, to all intents and purposes, to have exercise or enjoy the said office or offices, deputation or deputations, or any part of any of them, for the which such person or persons shall so give or pay any sum of money, fee or reward, or make any promise, agreement, covenant, bond, or other assurance to give or pay any sum of money fee or reward. *And further*, that all and every such bargains, sales, promises, agreements, covenants, bonds, and assurances as be before specified, shall be void to and against him and them by whom any such bargain, sale, promise, agreement, covenant, bond or assurance shall be had or made. *Provided always*,

II. *And be it further enacted by the authority aforesaid*, That if any person or persons do offend in any thing contrary to the tenor and effect of this statute, yet notwithstanding all judgments given, and all other act and acts executed or done by any such person or persons, so offending by authority or colour of the office or deputation, which ought to be forfeited or not occupied, or not enjoyed by the person so offending as aforesaid, after the said offence so by such person committed or done and before such person so offending for the same offence be removed from the exercise, administration and occupation of the said office or deputation, shall be and remain good and sufficient in law, to all intents, constructions and purposes, in such like manner and form as the same shall or ought to have remained and been, if this statute had not been made.

CHAP. XVII.

An ACT for preventing and punishing Perjury and Subornation of Perjury, and for compelling the attendance of Witnesses. Passed the 7th of February, 1788.

Persons procuring
or suborning wit-
nesses to commit
perjury.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all and every person and persons, who shall, unlawfully and corruptly procure or suborn any witness or witnesses, by letters, rewards, promises, menaces, threats, or by any other sinister or unlawful labour or means whatsoever, to commit any wilful and corrupt

rupt perjury in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint, information or indictment, in any wise touching or concerning any lands tenements or hereditaments, or any goods, chattels, debt, damages, or offence, in the Court of Chancery, or in the Court of Admiralty, or in the Court of Probates, or in any Court of Record, or before any Justice of the Peace, Mayor, Recorder, or Alderman, or shall, unlawfully and corruptly procure or suborn any witness or witnesses, who shall be sworn to testify in *perpetuam rei memoriam*, that then every such offender shall for his or her said offence, being thereof lawfully convicted or attainted, lose and forfeit the sum of *one hundred pounds*: And if any such offender being so convicted or attainted as aforesaid, shall not have any goods or chattels, lands or tenements to the value of *one hundred pounds*, that then every such person so being convicted or attainted of any of the offences aforesaid, shall for his said offence, suffer imprisonment for the space of *six months*, without bail or mainprize, and shall stand upon the pillory the space of *one whole hour* in some town or public place in the county or city where the offence was committed. And further, that no person being so convicted or attainted shall thenceforth be received as a witness to depose or be sworn in any matter or cause whatsoever, until the judgment given against him or her shall be reversed, by attainr or otherwise.

To forfeit 100l.

or be imprisoned 6 months and stand upon the pillory.

II. And be it further enacted by the authority aforesaid, That if any person, either by the subornation, unlawful procurement, sinister persuasion, or means, of any other, or by his or her own act, consent or agreement, wilfully and corruptly commit any manner of wilful perjury by his or her deposition in any of the courts aforesaid, or before any person or persons having competent authority to take the same and administer such oath, or on being examined in *perpetuam rei memoriam*, then he or she so offending and being thereof duly convicted or attainted, shall, for his or her said offence, lose and forfeit *one hundred pounds*, and be imprisoned *six months* without bail or mainprize: And such person so offending from thenceforth shall not be received as a witness to depose or be sworn in any matter or cause whatsoever, until the judgment given against him or her shall be reversed by attainr or otherwise. And further, if any such offender being so convicted or attainted as aforesaid, shall not have any goods or chattels, lands or tenements, to the value of *one hundred pounds*, that then every such offender so being convicted or attainted, shall be set on the pillory for the space of *one hour* in some town or public place in the same county or city where the said offence shall be committed.

Persons convicted of perjury,

to forfeit 100l. and be imprisoned 6 months,

for want of goods, &c. to be set on the pillory.

III. And be it further enacted by the authority aforesaid, That one moiety of the said forfeiture shall be to the use of the People of this State, and the other moiety such person or persons as shall be grieved, hindered or molested by reason of any the offence or offences aforesaid, who will sue for the same, by action of debt, bill, plaint or information in any Court of Record.

Forfeiture how applied.

IV. And be it further enacted by the authority aforesaid, That in every information or indictment to be prosecuted against any person for wilful and corrupt perjury, either at the common law or upon this act, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath was taken (averting such court or person or persons to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned without setting forth the bill, answer, information, indictment, declaration or any part of any record or proceedings either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed; any law, usage or custom to the contrary notwithstanding.

Mode of prosecution for perjury.

V. And be it further enacted by the authority aforesaid, That in every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, either at the common law, or upon this act, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration or any part of any record or proceedings, either in law or equity, and without setting forth

Mode of prosecution for subornation of perjury.

forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed; any law, usage or custom to the contrary notwithstanding.

When certain courts shall direct witnesses to be prosecuted for perjury.

Counsel for the prosecutor allowed no fees.

Certificate of the clerk, &c. without fee.

Witness for not appearing, fined 20l. and a recompence to the party grieved.

VI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for any of the Justices of the Supreme Court, either at the Supreme Court or any of the Circuit Courts, or Justices assigned to hear and determine, or Justices of gaol delivery, and they are hereby authorized, setting the court, or within twenty-four hours after, to direct any person examined as a witness upon any trial before him or them to be prosecuted for the said offence of perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and that it shall appear to him or them proper so to do, and to assign the party injured or other person undertaking such prosecution, counsel who shall and are hereby required to do their duty without any fee, gratuity or reward for the same; and every such prosecution so directed as aforesaid shall be carried on without payment of any fees in court or to any officer of the court, who might otherwise claim or demand the same; and the clerk or other proper officer who shall be attending when such prosecution is directed, shall and is hereby required, without any fee or reward, to give the party injured or other person undertaking such prosecution, a certificate of the same being directed together with the names of the counsel assigned him by the court; which certificate shall in all cases be deemed sufficient proof of such prosecution having been directed as aforesaid: But that no such direction or certificate shall be given in evidence upon any trial to be had against any person upon a prosecution so directed as aforesaid.

VII. *And be it further enacted by the authority aforesaid,* That if any person upon whom any process out of any of the Courts of Record within this State, shall be served to testify or depose concerning any cause or matter depending in any of the same courts, and having tendered to him or her according to his or her degree or calling, such reasonable sums of money for his or her costs and charges, as having regard to the distance of the place, is necessary to be allowed in that behalf, do not appear according to the tenor of the said process, not having a lawful and reasonable let or impediment to the contrary, then the person making default shall lose and forfeit for every such offence the sum of *twenty pounds*, and shall yield further recompence to the party grieved, according to the loss and hindrance which the party who procured the said process shall sustain by reason of the non-appearance of such witness, the said several sums to be recovered by the party so grieved against the offender by action of debt, bill, plaint or information in any Court of Record, with costs of suit.

C H A P. XVIII.

An A C T for preventing and punishing Champerty and Maintenance. Passed the 7th of February, 1788.

Agreement between officers, &c. to have part of any thing in plea, to be void,

and such maintainers how punished.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That no officer or any other person shall take upon him, any business that is or may be in suit in any court for to have part of the thing in plea or demand; and no person upon any such covenant or agreement shall give up his right to another, and if any do, such conveyance, covenant and agreement shall be void. *And further,* That all and every person and persons who shall maintain any plea, suit, or matter depending, or hereafter to be depending in any court for lands, tenements or other things, for to have part or profit thereof, shall be punished by fine or imprisonment. But this act shall not prohibit any person to have counsel of pleaders or men learned in the law for his fee or of his parents and next friends.

II. *And be it further enacted by the authority aforesaid,* That neither the Chancellor, the Justices of the Supreme Court, the President of the Senate, Senators, Officers of

of the Court of Chancery, clerks or other officers, judicial or ministerial, or any or either of them, shall take or receive any land or tenements in fee, by gift or by purchase, or to farm, or by champerty or otherwise, so long as the thing is in plea in any court, nor shall take any reward thereof, and he who doth the contrary, either by himself or by any other, or makes any bargain concerning the same, shall be punished by fine or imprisonment, as well he that purchaseth, as he that doth sell.

Judicial or ministerial officers taking gifts of lands, &c. so long as the thing is in plea, how punished.

III. *And it is hereby declared by the authority aforesaid,* That all such as confederate or bind themselves by oath, covenant, agreement or other alliance, that every of them shall aid and bear the other, falsely and maliciously to indict or cause to be indicted, any person or persons, or falsely to move or maintain any plea or suit, and such as maliciously cause children within age to appeal men of felony whereby they are imprisoned and grieved, as such as retain men in the country with liveries or fees, for to maintain their malicious enterprizes, as well the takers as the givers, are properly to be called conspirators. And such as move pleas and suits, or cause them to be moved, either by their own procurement or by others, and sue them at their own proper costs, for to have part of the land or thing in variance, controversy or demand, or part of the gains, are properly to be called champertors.

Who are to be called conspirators

and who champertors.

IV. *And be it further enacted by the authority aforesaid,* That whosoever will complain of conspirators, inventors, and maintainers of false quarrels, and the partakers thereof, may cause them to be attached, that they be before the People of the State of New-York, to answer unto the plaintiffs, by a writ out of the Chancery, in form following; "The People of the State of New-York, to the sheriff greeting; We command you that if A of G shall make you secure of prosecuting his complaint, then put by gage and safe pledges C of D that he be before us on the third Tuesday of January next, wheresoever we shall then be, to answer the aforesaid A of a plea of conspiracy and trespass, according to our ordinance thereof lately provided, as the same A can reasonably shew that he ought to answer unto him thereof; and have you there the names of the pledges and this writ." And further that if any person shall prosecute by bill without writ, the court shall do right to the plaintiff without delay.

Conspirators, inventors, and maintainers of false quarrels how attached.

Form of the writ.

Prosecuting by bill without writ.

V. *And be it further enacted by the authority aforesaid,* That no person whosoever, great or small, either by himself or by any other, by sending letters or otherwise, shall take upon him to maintain quarrels, other than his own, nor parties in the country or elsewhere, to the let and disturbance of law, upon pain of being punished by fine or imprisonment, and to lose his office if he be an officer.

Persons maintaining quarrels not their own punished.

VI. *And be it further enacted by the authority aforesaid,* That every citizen of this State who shall maliciously be indicted or appealed of or for any treason felony or trespass by any indictment or appeal before the Justices of the Supreme Court, or before Justices assigned to hear and determine, or before Justices of the Peace, or before any other having power to take such indictments or appeals, and who shall be then dwelling in any other county than where such indictment or appeal shall be taken, and who shall afterwards be duly acquitted thereof by verdict, shall after such acquittal have a writ and action upon his case against every procurer of such indictment or appeal, and like process shall be upon and in the same writ, as in a writ of trespass done with force and arms; and if such procurer be convicted in this behalf, the plaintiff shall recover his treble damages.

Procurers of malicious indictments or appeals to pay treble damages to the plaintiff.

VII. *And be it further enacted by the authority aforesaid,* That if any person or persons through malice intending to grieve another, do procure false appeals to be made of murder or other felony, when the party appealed doth acquit himself in any court having cognizance thereof, in due manner either at the suit of the appellor or at the suit of the People of this State, the Justices before whom the appeal shall be heard and determined shall punish the appellor by fine or imprisonment, and the appellor shall also restore to the party appealed his or her damages according to the discretion of the Justices, having respect to the imprisonment or arrestment that the party appealed hath sustained by reason of such appeal, and to the infamy he or she hath incurred by the imprisonment or otherwise: And if such appellor be not able to recompence the damages, it shall be inquired by whose abetment or malice the appeal was commenced, if the party appealed

Malicious appellors how punished.

Malicious abettors
how punished.

pealed desire it; and if it be found by the same inquest, that any person is abettor through malice, he shall be distrained by a judicial writ at the suit of the party appealed to come before the Justices, and if he be lawfully convicted of such malicious abetment, he shall be punished by fine or imprisonment and restitution of the damages as above is said of the appellor.

Preamble
concerning fraudulent
gifts & conveyances,

And whereas many persons having right and true title, as well to lands, tenements, and rents, as to recover in personal actions, be wrongfully prevented or delayed of their right and action by means that the occupiers or defendants in order to be maintained and sustained in their wrong, do make gifts and conveyances of their lands and tenements which be in debate, and of their goods and chattels to others. *Therefore,*

which are to be void.

102. c. 9

VIII. *Be it further enacted by the authority aforesaid,* That all such gifts and conveyances so made or to be made, by fraud or for maintenance, shall be void or holden for none.

Where persons buying or selling, &c. pretended rights or titles to lands, &c. the seller to forfeit the value of the lands &c.

32. 148. c. 9

IX. *And be it further enacted by the authority aforesaid,* That no person or persons shall from henceforth bargain, buy, sell, or convey, or by any ways or means, obtain, get or procure any pretended rights or titles, or make or take any promise, grant or covenant to have any right or title of any person or persons in, or to, any manors, lands, tenements or hereditaments, unless such person or persons who shall so bargain, sell, grant or convey, or covenant, or promise the same, or their ancestors, or those by whom he, she, or they claim the same, have been in the possession of the same, or of the reversion or remainder thereof, or taken the rents or profits thereof, by the space of one whole year next before the said bargain, sale, grant, conveyance, covenant or promise made, upon pain that he or she who shall make any such bargain, sale, grant, conveyance, covenant or promise, shall forfeit the whole value of the lands, tenements or hereditaments so bargained, sold, granted, conveyed, covenanted or promised, contrary to the form of this act; and the buyer or taker thereof, knowing the same, shall also forfeit the value of the said lands, tenements, or hereditaments so by him bought or taken as aforesaid; the one half of the said forfeitures to be to the use of the People of this State, and the other half to the party that will sue for the same, in any Court of Record by action of debt, bill, plaint, or information; *Provided always,* that it shall be lawful for any person or persons, being in lawful possession, by taking of the yearly farm rents, or profits of or for any manors, lands, tenements or hereditaments, to buy, obtain, get, or have, by any reasonable ways or means, the pretended right or title of any other person or persons to, of, or in, such manors, lands, tenements or hereditaments, whereof he or they shall be so in lawful possession.

And the buyer also to forfeit the value of the said lands, &c.

Forfeitures how to be disposed of

Proviso
in favour of lawful
possessors buying
pretended titles.

Persons unlawfully maintaining, or procuring unlawful maintenance in any matter or cause.

H. — H.

And retainers for maintenance; And embracers of jurors.

to forfeit 100l.

how to be recovered

X. *And be it further enacted by the authority aforesaid,* That no person or persons do hereafter unlawfully maintain, or cause or procure any unlawful maintenance in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint, information or indictment, in any wise touching or concerning any lands, tenements or hereditaments, or any goods, chattels, debts, damages, or offences, in any court in this State, or before any person or persons, who have, or hereafter shall have authority, by commission, patent, writ or otherwise, to examine, hear or determine any matter or witnesses concerning the same, and that no person or persons do hereafter unlawfully retain for maintenance of any suit or plea, any person or persons, or embrace any freeholders or jurors, by letters, rewards, promises, or any other sinister labor, or means, to maintain any matter or cause, or to the hindrance or disturbance of justice, or to the procurement or occasion of any false verdict in any of the courts aforesaid, upon pain to forfeit for every such offence *one hundred pounds*; the one moiety thereof to the use of the People of this State, and the other moiety thereof to him who will sue for the same, by action of debt, bill, plaint or information, in any Court of Record.

CHAP. XIX.

An ACT for the prevention and punishment of Extortion. Passed the 7th of February, 1788.

BE it Enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That no Judge, Justice, Sheriff, or other officer whatsoever, ministerial or judicial, shall receive or take any fee or reward to do his office, but such as is or shall be allowed by the laws of this State; and if any doth, he shall restore to the party grieved, double damages. And further, that if any Judge, Justice, Sheriff or other officer aforesaid, hath received or taken or shall receive or take, by colour of his office, any fee or reward whatsoever, not allowed by the laws of this State for doing his office, and be thereof convicted, either at the suit of the party grieved, in any Court of Record, or at the suit of the People of this State in the Supreme Court, or before Justices of gaol delivery, or before Justices assigned to hear and determine, or in any Court of General Sessions of the Peace, he shall be punished by fine or imprisonment, or both, according to the discretion of the court in which such conviction shall be had.

Officers taking unlawful fees for doing their duty, how to be punished.

CHAP. XX.

An ACT for preventing and punishing Forgery and Counterfeiting. Passed the 7th February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any record, charter, deed or writing sealed, will, testament, bond, writing-obligatory, bill of exchange, promisory note for payment of money, indorsement or assignment of any bill of exchange, or promisory note for payment of money, or any acquittance or receipt, either for money or goods, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill or other security, for payment of money, or any warrant or order for payment of money or delivery of goods, with intention to defraud any person, or body politic or corporate whatsoever, or shall utter or publish as true, any false, altered, forged or counterfeited record, charter, deed, or writing sealed, will, testament, bond, writing-obligatory, bill of exchange, promisory note for payment of money, indorsement or assignment of any bill of exchange or promisory note for payment of money, acquittance or receipt, either for money or goods, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt, for any note, bill, or other security for the payment of money, or any warrant or order for the payment of money or delivery of goods, with intention to defraud any person, or body politic, or corporate whatsoever, knowing the same to be false, altered, forged or counterfeited; then every such person being thereof convicted according to the due course of law, shall be deemed guilty of felony and shall suffer death as a felon.

Persons forging or counterfeiting records, charters, &c. or assisting therein,

or altering or publishing as true, any false altered record, &c.

to be deemed guilty of felony and to suffer death.

II. And be it further enacted by the authority aforesaid, That if any person shall counterfeit, or cause or procure to be counterfeited, or act or assist in counterfeiting, any certificate or other public security issued or to be issued by the authority of the United States in Congress assembled, or by the authority of the Legislature of this State, for payment of money, or acknowledging the receipt of money or goods, or any bill of credit emitted or issued, or hereafter to be emitted or issued by or under the authority of the United States in Congress assembled, or by or under the authority

Persons counterfeiting or assisting in counterfeiting public securities or bills of credit,

or altering of any
certificates or bills
of credit, &c.

or passing such coun-
terfeits or altered
bills, knowingly,

being convicted shall
suffer death.

Preamble
respecting the diffi-
culty of discovering
the original sum of
altered bills, &c.

Certificates or
bills altered--to be
presumed to be al-
tered from a less to
a greater value, &c.
until proved other-
wise by the defend-
ant.

Persons counter-
feiting, &c. of gold
or silver coins,
or passing or offering
to pass the same
knowingly,
to suffer death.

All former acts
about forgery and
counterfeiting re-
pealed.

ity of the Legislature of this State, or by or under the authority of the Le-
gislation of any other of the United States of America, or shall alter any certi-
ficate issued or to be issued as aforesaid, or any bill of credit emitted or issued, or to
be emitted or issued as aforesaid, so that the same shall appear to be of greater
value than the same was or shall be issued or emitted for, or intended to pass for by
the law, resolution, or act in pursuance of which the same was or shall be issued or
emitted, or shall utter, pass, or give in payment, or offer to pass or give in payment,
or procure to be uttered, passed or given in payment any such counterfeited or alter-
ed certificate or bill of credit, knowing the same to be counterfeited or altered, then
every such person, being thereof convicted according to the due course of law, shall
be deemed guilty of felony, and shall suffer death as a felon.

And Whereas it frequently happens, that the persons who so alter certificates and
bills of credit with respect to their denomination, do at the same time alter the same
as to the numbering or indenting thereof, and also in other respects, in so much that
it is in some cases extremely difficult, and in others impossible to discover, from the
checks or other memorandums remaining in the public offices, the sum for which
the certificate or bill of credit, so altered, originally issued. *Therefore,*

III. *Be it further enacted by the authority aforesaid,* That in all cases where any
such certificate or bill of credit shall be charged to have been altered, and they shall
appear to have been altered, the same shall be presumed to have been altered from a
less to a greater value, sum or denomination, and the burthen of proving that the
certificate or bill of credit charged to have been altered, was not altered from a less
to a greater sum, shall lie on the defendant charged with altering the same.

IV. *And be it further enacted by the authority aforesaid,* That if any person shall
counterfeit, or cause or procure to be counterfeited, or act or assist in counterfeiting,
any of the species of gold or silver coins, now current or hereafter to be current in
this State, or shall pass or give in payment, or offer to pass or give in payment any
such counterfeit, knowing the same to be counterfeit; then every such person being
thereof convicted according to the due course of law, shall be deemed guilty of felo-
ny, and shall suffer death as a felon.

V. *And be it further enacted by the authority aforesaid,* That all other acts and
clauses of acts heretofore made, concerning forgery and counterfeiting, or the punish-
ment thereof, shall be and hereby are repealed, except as to offences heretofore com-
mitted.

C H A P. XXI.

*An ACT making it Felony in such who shall levy any Fine, suffer any Recovery or
acknowledge any Deed, Recognizance, Bail or Judgment in the name of another,
not being privy and consenting thereto. Passed the 7th February, 1788.*

Persons acknow-
ledging, &c. fines,
recoveries, deeds,
&c. in the names of
others not privy
thereto,

and persons repre-
senting others to
their injury,

shall be adjudged
guilty of felony.

BE it enacted by the People of the State of New-York, represented in Se-
nate and Assembly, and it is hereby enacted by the authority of them, That
all and every person and persons who shall acknowledge or procure to be acknowledged
any fine or fines, recovery or recoveries, deed or deeds, recognizance or recognizan-
ces, bail or bails, judgment or judgments, in the name or names of any other person
or persons not privy or consenting to the same, and all and every person and persons
who shall before any person or persons authorized to take bail or bails, represent or
personate any other person or persons, whereby the person or persons so represented
or personated may be liable to the payment of any sum or sums of money for debt or
damages to be recovered in the same suit or action wherein the person or persons are
represented or personated, as if he or they had really acknowledged and entered into
the same bail or bails, being lawfully convicted or attainted thereof, shall be ad-
judged guilty of felony.

Provided

II. *Provided always, and be it further enacted by the authority aforesaid, That* this act shall not extend to any judgment or judgments acknowledged by any attorney or attorneys of record for any other person or persons against whom any such judgment or judgments shall be had or given.

This act not to extend to judgments acknowledged by attorneys of record.

C H A P. XXII.

An ACT to prevent stealing and avoiding Records. Passed the 7th February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any record or parcel of the same, writ, return, pannel, process, or other proceeding in the Court of Chancery, Supreme Court, Exchequer, or in any other Court Record, or in the office of the Secretary of this State, or in the office of the Clerk of any city or county in this State, hath been or hereafter shall be stolen, or willingly taken away, withdrawn, or avoided, by any clerk, or by any other person, by reason whereof any judgment shall be reversed, then every such stealer, taker away, withdrawer or avoider, their procurers, counsellors, and abettors, being convicted or attainted thereof, according to the due course of law, shall be adjudged guilty of felony.

Stealers, &c. of records, writs, &c. in Chancery, Supreme Court, or any Court of Record, or in the Secretary's office, or in any clerk's office of any city or county, to be adjudged guilty of felony.

II. *Provided always, and be it further enacted by the authority aforesaid, That this* act shall not extend to any amendment or entry made or to be made by any rule, order, judgment, or decree of any court.

This act not to extend to certain amendments or entries.

C H A P. XXIII.

An ACT declaring it to be Felony in Servants to embezzle their Masters Goods. Passed the 7th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any servant to whom any money, goods or chattels heretofore have been, or hereafter shall be, by his or her master or mistress, delivered to be safely kept, hath withdrawn himself, or herself from his or her said master or mistress and gone away, or hereafter shall withdraw himself or herself from his or her said master or mistress and go away with the said money, goods or chattels or any part thereof, to the intent to steal the same, and defraud his or her said master or mistress thereof, contrary to the trust and confidence in him or her reposed, by his or her said master or mistress; or being in the service of his or her said master or mistress, without assent or commandment of his or her said master or mistress, hath embezzled or shall embezzle the same money, goods or chattels, or any part thereof, or otherwise hath converted or shall convert the same to his or her own use, with like purpose to steal the same, then, and in every such case, if the said money, goods or chattels that any such servant hath gone away with, or shall go away with, or which such servant hath embezzled or shall embezzle, with purpose to steal the same, as aforesaid, be of the value of twenty shillings, or above; the same false, fraudulent and untrue act or demeanor, shall be adjudged felony: But this act shall not extend to any apprentice, nor to any person within the age of eighteen years, going away with the goods or chattels of his or her master or mistress, or otherwise converting the same to his or her own use during the time of his or her apprenticeship, or being within the age of eighteen years; and every apprentice, and every other person under the age of eighteen years, doing or offending contrary to this act, shall stand and be in like case as if this act had not been made.

Servants intrusted by their masters, &c. with money, goods, &c. and going away with the same with intent to steal them, &c.

or embezzling them &c.

if to the value of 20s. or above,

Such demeanor to be adjudged felony.

This act not to extend to apprentices.

C H A P. XXIV.

An ACT to restrain all persons from Marrying until their former Wives and former Husbands be dead. Passed the 7th of February, 1788.

The offence of married persons, marrying others during the lives of their former husbands or wives, shall be felony, and the offenders tried, &c. in the county where apprehended.

This act not to extend to persons whose husbands or wives have been 5 years without the United States, or to others under certain circumstances.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any person or persons being married, or who hereafter shall marry, do at any time marry any person or persons, the former husband or wife being alive, then every such offence shall be felony; and the party and parties so offending shall receive such and the like proceedings, trial, judgment and execution in the county where such person or persons shall be apprehended, as if the offence had been committed in the same county where such person or persons shall be taken or apprehended; but neither this act nor any thing therein contained shall extend to any person or persons whose husband or wife shall be continually remaining without the United States of America by the space of five years together, or whose husband or wife shall have absented him or herself the one from the other by the space of five years together, the one of them not knowing the other to be living within that time; nor to any person or persons who are, or shall be, at the time of such marriage, divorced by the sentence or decree of any court having cognizance thereof; nor to any person or persons where the former marriage hath been, or shall be, by the sentence or decree of any such court declared to be void and of no effect; nor to any person or persons for or by reason of any former marriage had or made, or to be had or made within the age of consent.

C H A P. XXV.

An ACT to prevent malicious Maiming and Wounding. Passed the 7th of February, 1788.

Malicious cutting out the tongue, putting out the eyes, &c. &c.

punished with death

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That if any person or persons, shall on purpose and of malice aforethought cut out the tongue or put out the eyes of any other person; or if any person or persons shall on purpose and of malice aforethought, and by lying in wait unlawfully cut out or disable the tongue, put out an eye, slit the nose or lip, or cut off the nose or lip, or cut off or disable any limb or member of any other person, with intention in so doing to murder, or kill, or to maim, or disfigure, in any the manners aforesaid, such other person; every such offence shall be deemed and adjudged felony; and every person or persons so offending, and every person and persons who shall aid, abet, assist, counsel, hire or command any person or persons to commit any of the said offences, being thereof convicted, or attainted, shall be and hereby are declared to be felons, and shall suffer death for the same.

C H A P. XXVI.

An ACT concerning Prisoners breaking Prison. Passed the 7th of February, 1788.

Prison breakers not punished for breaking prison only.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That no person from henceforth who, being imprisoned, shall break prison, shall have judgment of

of life or member for breaking of prison only, except the cause for which such prisoner was taken and imprisoned did require such judgment, if he had been convicted thereupon according to the law and custom of this State,

C H A P. XXVII.

An ACT, to repeal an Act, entitled, "An Act to prevent the destruction of Fish, in the County of Suffolk." Passed the 8th of February, 1788.

BE it Enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the act entitled, "An act to prevent the destruction of fish in the county of Suffolk," passed the seventeenth day of April, one thousand seven hundred and eighty-six, be, and the same is hereby repealed.

Act to prevent destruction of fish in Suffolk county, repealed.

C H A P. XXVIII.

An ACT requiring all Persons holding Offices or Places under the Government of this State, to take the Oaths therein mentioned. Passed the 8th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That every person who shall hereafter be elected a member of the Senate of this State, and every person who shall hereafter be elected a member of the Assembly of this State, before he takes his seat, and every person who shall hereafter be elected Governor or Lieutenant-Governor of this State, and every person who shall hereafter be appointed a delegate to represent this State in the Congress of the United States, and every person who shall hereafter be appointed to any office, civil or military, before he enters upon the execution of his trust, place or office, shall, and hereby is required to take and subscribe the following oath, that is to say, "I ——— do solemnly without any mental reservation or equivocation whatsoever, swear and declare, that I renounce and abjure all allegiance and subjection to all and every foreign King, Prince, Potentate and State, in all matters ecclesiastical as well as civil; and that I will bear faith and true allegiance to the State of New-York, as a free and independent State."

Members of Senate and Assembly, Governor and Lieutenant Governor, delegates to Congress, and all other civil and military officers required to take an oath of abjuration and allegiance.

The form of the oath.

II. And be it further enacted by the authority aforesaid, That every person who shall hereafter be elected Governor or Lieutenant Governor of this State, and every President of the Senate, who shall at any time administer the government of this State, shall also, before he enters upon the execution of his trust, place or office, take the following oath of office, to wit: "I ———, elected Governor, Lieutenant Governor, or President of the Senate, (as the case may be) of the State of New-York, do solemnly swear and declare, that I will in all things, to the best of my knowledge and ability, faithfully perform the trust reposed in me as Governor, Lieutenant Governor, or President of the Senate (as the case may be) of the State of New-York, by executing the laws, and maintaining the peace, freedom and independence of the said State, in conformity to the powers delegated unto me by the constitution of the said State."

Oath of office for the Governor, Lieutenant Governor & President of the Senate.

III. And be it further enacted by the authority aforesaid, That the President of the Court for the trial of impeachments and the correction of errors, and every member of the said Court, and all judicial officers in this State hereafter to be elected or appointed, shall also, before they enter upon the execution of their respective offices, severally take and subscribe the following oath, to wit: "I ——— do solemnly swear and declare, that I will to the best of my knowledge and ability, execute the office of

Oath of office for the President and members of the court for the trial of impeachments, & correction of errors, and for all other judicial officers.

(here

(here describe the office) according to the constitution and laws of the State of New-York in defence of the freedom and independence thereof, and for the maintenance of liberty and the distribution of justice among the citizens and inhabitants of the said State, without any fear, favor, partiality, affection or hope of reward."

Oath of office for
the Secretary of the
State.

IV. *And be it further enacted by the authority aforesaid,* That every person who shall hereafter be appointed Secretary of this State shall also before he enters upon the execution of his office, take and subscribe the following oath, to wit: "I ———, Secretary of the State of New-York, do solemnly swear and declare, that I will in all things according to the best of my knowledge and ability, justly and honestly keep the records, parchments, papers and instruments of writing, committed unto me, and which shall be from time to time hereafter committed unto me by virtue of my said office, and in all things to the best of my knowledge and understanding, faithfully and honestly perform the duty of my said office of Secretary and the trust reposed in me, without favor or partiality."

Oath of office for
Sheriffs and Coro-
ners.

V. *And be it further enacted by the authority aforesaid,* That every person who shall hereafter be appointed Sheriff or Coroner of the city and county of New-York or Albany, or of any other county in this State, and the chief marshal of the city of Hudson, and all and every of their deputies respectively, shall also, before he, they or any of them shall enter upon the execution of the said office, take the following oath, to wit: "I ———, Sheriff, or Coroner, or Chief Marshal, or Deputy Marshal, or Under Sheriff, or one of the deputies of the Sheriff (as the case may be) of the city and county of New-York or Albany, or Hudson, or of the county of ——— (as the case may be) do solemnly swear and declare, that I will well and truly serve the People of the State of New-York in the office of Sheriff or Coroner, or Chief Marshal, or Deputy Marshal, or Under Sheriff, or one of the deputies of the Sheriff (as the case may be) of the said county, or city and county, or city (as the case may be) during my continuance therein, and will faithfully and truly execute or cause to be executed (the words "or cause to be executed," to be omitted in the oath to be administered to an Under Sheriff, or Deputy Sheriff, or Deputy Marshal) all writs and precepts which shall be delivered to me, or come to and remain in my hands for that purpose according to the best of my knowledge, skill and judgment; and that I will not corruptly or unjustly use or exercise the said office during the time that I shall remain therein; neither will I directly or indirectly accept, receive, or take by any colour, means or device whatsoever, or consent to the taking any manner of fee, or reward whatsoever of or from any person or persons whomsoever, for the summoning, impaneling, or returning of any inquest, jury or tales, in any court for the People of this State, or between party and party, other than such fees or reward as now are, or hereafter shall be allowed by law for the same; and that I will not directly or indirectly, exact or demand any manner of fee or reward whatsoever, from any person or persons whomsoever, for serving or returning of any writ, precept or process whatsoever, or for any other service whatsoever in my said office, other than such fees or reward as now are, or hereafter shall be allowed for the same by law; but that I will demean myself honestly and impartially in all things that shall belong to the duty of my said office, according to the best of my knowledge, skill and ability."

Oath of office for
registrars or clerks of
courts, or of cities
or counties.

VI. *And be it further enacted by the authority aforesaid,* That every person who shall hereafter be appointed Register or Clerk of any court, or Clerk of any city or county in this State shall also, before he enters upon the execution of his office, take the following oath, to wit, "I ——— Register or Clerk, or one of the Clerks of the court of ———, or Clerk of the county of ———, or of the city and county of ——— or of the city of ——— (as the case may be) do solemnly swear and declare, that I will justly and honestly keep the records, parchments, papers and writings committed to me by virtue of my said office, and which shall be from time to time hereafter committed unto me, and in all things to the best of my knowledge and understanding, faithfully and honestly perform the duty of my said office, and the trust reposed in me, without favour or partiality."

VII. *And be it further enacted by the authority aforesaid,* That all other ministerial officers hereafter to be appointed shall also, before they respectively enter upon the execution of their respective offices, severally take and subscribe the following oath to wit, "I ——— appointed to the office of (here insert the officers title of office) do solemnly promise and swear, that I will in all things to the best of my knowledge and ability, faithfully perform the trust reposed in me.

Oath of office of all other ministerial officers

VIII. *And be it further enacted by the authority aforesaid,* That the said oaths shall be taken and subscribed before such person or persons as shall be appointed by commission for that purpose under the great seal of this State, in nature of a *dedimus potestatem* who shall take such subscriptions on a roll or rolls, to be provided for that purpose, containing a proper caption or captions with the said oaths written at length thereon, and subscribed with the proper names and hand writing of the several person and persons taking such respective oaths; which rolls shall be disposed of as follows, to wit; those containing the oaths and subscriptions of any Governor, Lieutenant-Governor, President of the Senate, member of the Senate or Assembly, Chancellor; Judge of the Supreme Court, Judge of the Court of Admiralty, Judge of the Court of Probates, or any officer of either of the said courts, or Attorney-General, or Secretary of this State, or military officer whose office shall extend into more than one county, shall be deposited and kept in the office of the Secretary of this State; and those containing the oaths and subscriptions of the respective county officers, both civil and military, shall be deposited and kept in the office of the Clerk of the same county. *Provided always,*

Before whom the oaths are to be taken and subscribed.

Subscription rolls how to be disposed of.

IX. *And be it further enacted by the authority aforesaid,* That this act shall not extend to any county Treasurer, Supervisor, Town Clerk, Commissioner of the highway, Assessor, Collector, Constable, or other town officer.

This act not to extend to any county treasurer, supervisor, &c. &c.

C H A P. XXIX.

An ACT to repeal the Act, entitled "An Act for the relief of Insolvent Debtors."
Passed the 8th of February, 1788.

WHEREAS it has been found that the act, entitled "an act for the relief of insolvent debtors," has been productive of much mischief, and there is great reason to suppose that wicked men have in many instances been guilty of the most fraudulent practices, to obtain those benefits which the Legislature intended only for the innocent and unfortunate.

Preamble reciting the evil tendency of the former insolvent act,

Be it therefore enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said act and every clause, matter and thing therein contained, shall be, and the same is hereby repealed.

here repealed.

II. *Provided always, And be it further enacted by the authority aforesaid,* That all discharges heretofore regularly and *bona fide*, had under the said act, shall be as valid; and that in every case where an assignment has been already made by virtue of the said act, the assignee or assignees may proceed and act, and the court or Judge by whom the assignment was directed, may proceed to the final discharge of the said insolvent debtor, in all respects, as if this act had not been passed; any thing herein to the contrary thereof, in any wise notwithstanding.

Proviso. Where former discharges shall be as valid, and assignments already made. The assignees to proceed, &c. to a final discharge of insolvents.

C H A P. XXX.

An ACT to take out of Circulation the Bills of Credit emitted by Law, and to emit others as a Substitute. Passed the 8th of February, 1788.

Preamble
respecting the present bills of credit, and counterfeits.

WHEREAS, by virtue of an act of the Legislature of this State, entitled, "An act for emitting the sum of two hundred thousand pounds in bills of credit, for the purposes therein mentioned," passed the eighteenth day of April, one thousand seven hundred and eighty-six, bills of credit to the amount of two hundred thousand pounds were emitted: *And whereas*, counterfeits of the said bills have been made, and have been passed as true bills to the great injury of the good People of this State; Therefore,

New bills of credit to be made to the amount of, &c. the bills, by act of the 18th April, 1786.
Their impression, device, numbering, &c.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That bills of credit, to the amount and of the several denominations of the bills specified in the first section of the act herein before recited, and still remaining in circulation, be made forthwith after the passing of this act; and that upon every of the said bills shall be impressed the arms of the State of New-York, and the words following to wit, "by a law of the State of New-York, this bill shall be received in all payments into the treasury, for New-York, the day of one thousand seven hundred and eighty-eight," and also the words "It is death to counterfeit this bill," together with such other words and devices as the Treasurer of this State for the time being, and Daniel M'Cormick, John De Peyster, Nicholas Hoffman, and Hendrick Wyckoff, or any three of them shall direct; which bills when so impressed, shall be numbered by Daniel M'Cormick, Hendrick Wyckoff, John De Peyster, and Nicholas Hoffman, or any of them, and signed by any two of them, and when signed, shall by the persons hereby appointed signers thereof, or any of them, be delivered unto the said treasurer, who shall give duplicate receipts for the same, one of which shall be delivered by the said signers, or any one of them, to the Legislature of this State, whenever the same shall be required.

The directors names.

The bills to be delivered into the treasury after signing.

The Treasurer & directors

to employ engravers

choose types,

procure paper,

and employ a printer.

The printer's duty.

All persons concerned to be sworn to the faithful execution of their trusts.

II. *And be it further enacted by the authority aforesaid*, That the said Treasurer, and the said Daniel M'Cormick, Hendrick Wyckoff, John De Peyster and Nicholas Hoffman, or any three of them shall, and they are hereby authorized to employ such and so many engravers as they shall deem proper to engrave such and so many plates for the said bills as they may judge necessary, and shall direct with what types the words to be printed on the said bills shall be impressed thereon, and shall procure such paper for the said bills, as in their judgment shall be best adapted to the purpose, and shall employ such printer to print the said bills as they may think proper; which printer shall perform the printing under such inspection, and agreeably to such directions as they shall from time to time give and order: *And further*, That they the said Daniel M'Cormick, Hendrick Wyckoff, John De Peyster and Nicholas Hoffman, and every person by them or any of them employed in engraving the plates or printing the bills, or to inspect the printer, whilst the same bills are striking off, shall before they respectively enter on the business assigned them, take and subscribe, before one of the Justices of the Supreme Court, or the Mayor or Recorder of the city of New-York, an oath well and truly to execute the trust reposed in them by, and in pursuance of, this act.

Supernumerary bills, with the plates, how to be destroyed.

III. *And be it further enacted by the authority aforesaid*, That if any more of the said bills shall be printed than is directed by this act, then the said Daniel M'Cormick, Hendrick Wyckoff, John De Peyster, and Nicholas Hoffman, or any two of them, as soon as the number of bills of each denomination to be made as aforesaid shall be signed and delivered to the said Treasurer, shall immediately, and in the presence of the said Treasurer, destroy such supernumerary bills, and the plates by which the bills were struck off shall be melted down, or otherwise destroyed in the presence of the said Treasurer, and of the said Daniel M'Cormick, Hendrick Wyckoff, John De Peyster and Nicholas Hoffman, or any two of them.

IV. *And*

IV. *And be it further enacted by the authority aforesaid,* That as soon as the said Treasurer shall have received from the said signers to the amount of thirty thousand pounds of the said new bills, he shall cause advertisements to be published in two of the news-papers printed in the city of New-York, and in each of the public news-papers printed in the other cities and counties within this State, requiring the holders of any of the bills of credit emitted by virtue of the said recited act, to bring the same into the treasury, and notifying that he will give in exchange for the same, bills of credit of equal value emitted by virtue of this act.

When the Treasurer shall give in exchange the new bills for those emitted by act of 18th April, 1786.

V. *And be it further enacted by the authority aforesaid,* That the bills of credit to be emitted by virtue of this act, shall pass and be receivable in all cases in like manner as the bills of credit emitted by the said herein before recited act, were thereby enacted to be receivable and taken.

The bills by virtue of this act to pass, &c. as those did for which they were exchanged.

VI. *And be it further enacted by the authority aforesaid,* That all the bills of credit which the said Treasurer shall receive in exchange as aforesaid, shall be by him from time to time destroyed in the manner directed by the forty-ninth section of the said recited act, in the presence of the said Daniel M'Cormick, Hendrick Wyckoff, John De Peyfter and Nicholas Hoffman, or any two of them; but the said Treasurer shall on the first Monday of November next ensuing the passing of this act, and annually on the first Monday of November in each year following, previous to the destroying of the said bills, deliver unto the persons hereby nominated as signers of the bills to be emitted by virtue of this act, two separate accounts subscribed by himself of the amount and denomination of the bills so by him to be at that time cancelled, which signers or any three of them after having examined the said bills, and having found that the amount and denominations correspond with the said accounts, and having seen the said bills destroyed, shall indorse and subscribe a certificate on each of the said accounts, purporting that the bills therein specified have been cancelled by the said Treasurer; one of which accounts so certified and subscribed shall be delivered to the said Treasurer, and the other retained by the said signers or one of them, to be delivered to the Legislature whenever required.

How the Treasurer shall destroy the bills received in exchange,

and deliver 2 accounts to the signers,

their duty thereon.

Treasurer's 2 accounts certified how to be disposed of.

And whereas it may so happen, that persons possessed of bills of credit emitted by virtue of the said recited act, and who may have borrowed the said bills at any loan-office established by the said act, may find it most convenient to pay the same bills into such loan-office for principal or interest, or for both, of the money so borrowed;

Preamble relating to bills paid into loan-offices,

Therefore,

VII. *Be it further enacted by the authority aforesaid,* That all such of the bills emitted by virtue of the said recited act, as shall be so paid into any loan-office, and by any loan-officer into the treasury of this State, shall be cancelled, accounted for, and disposed of in the manner directed in the last preceding section of this act. *Provided always,* that none of the bills emitted by virtue of the said recited act, shall be received by any loan-officer after the ninth day of July next, but that thenceforth all such bills shall be exchanged at the treasury until the third Tuesday of June, in the year one thousand seven hundred and eighty-nine; after which period they shall not be so exchanged nor taken in any payments whatsoever.

to be cancelled, &c. as directed in the last section.

Proviso, prohibiting loan-officers from receiving certain bills after the 9th of July next.

But all such bills to be exchanged at the treasury until 3d Tuesday in June, 1789.

And whereas doubts have arisen whether any of the bills of credit or other monies which may be paid into the loan-offices by the borrowers of such bills, as in part of the principal loaned, were to be paid into the Treasury and there destroyed, if such payment was in bills, or detained if in gold or silver for the redemption of the bills in circulation; therefore to remove such doubts,

Preamble.

VIII. *Be it further enacted by the authority aforesaid,* That any part of any principal borrowed by any person whosoever, which shall have been paid, or have come into any loan-office, or which shall hereafter, and on or before the third Tuesday in June, which will be in the year of our Lord, one thousand seven hundred and ninety, or within twenty-two days thereafter, be paid or come into any loan-office, shall and may be reloaned by the respective loan-officers, on the terms and conditions directed in the said recited act, any thing in the said act, or this act, to the contrary notwithstanding.

Any part of principal paid to the loan-office before the 3d Tuesday in June, 1790, &c. shall be reloaned.

IX. *And*

Monies on or before 3d Tuesday in June, 1790, &c. paid to any loan-office for interest, or in discharge of principal or interest, to be paid into the treasury.

Treasurer's duty as to bills paid into the treasury,

and as to gold and silver.

Preamble, respecting the redemption of the bills.

Mode of redeeming the bills of credit.

Gold or silver paid into the treasury to be exchanged for them, which are to be cancelled, &c.

How the Treasurer shall proceed, if he has not redeemed all the bills by the 1st Monday in November, 1800,

Bills not redeemed, to be received in all payments in the treasury.

Treasurer to pay all the expences attending the issuing of the new bills.

Allowance for signing and numbering.

Accounts to be first audited.

Mortgagers, &c. any time before sale by the loan-office, paying the whole money and expences, are restored to their estate in the mortgaged premises.

IX. *And be it further enacted by the authority aforesaid,* That all monies which shall hereafter, and on or before the third Tuesday of June, which will be in the year of our Lord, one thousand seven hundred and ninety, or within twenty-two days thereafter, be paid into any loan-office for interest, and all monies which shall from and after the said third Tuesday in June last mentioned, or within twenty-two days thereafter, be paid into any loan-office, in discharge either of principal or interest, shall by the loan-officers respectively, be paid into the treasury of this State, and so much of such monies as shall be so paid into the treasury in bills of credit, shall, by the Treasurer be cancelled, accounted for, and disposed of in the manner directed by the sixth section of this act; any thing in the said recited act, or in this act to the contrary thereof notwithstanding: But if such monies or any part thereof shall be paid in gold or silver, the same shall be disposed of in the manner herein after directed.

And whereas provision was made in and by the said recited act for the redemption of the bills of credit emitted by virtue thereof, so as that the whole of the said bills should be redeemed in the year one thousand eight hundred; in order therefore more effectually to accelerate the said redemption:

X. *Be it further enacted by the authority aforesaid,* That whenever any gold or silver shall be paid into the treasury of this State, for principal or interest of any of the bills of credit which have been or may be loaned; the Treasurer shall, and he is hereby required from time to time to exchange such gold or silver for such bills at the value expressed on such bills; and the bills so received in exchange, shall be cancelled, accounted for, and disposed of in the manner directed by the sixth section of this act.

XI. *And be it further enacted by the authority aforesaid,* That if the Treasurer shall not, by means of such exchange as aforesaid, have redeemed the whole of the said bills of credit on or before the first Monday of November, in the year one thousand eight hundred, he shall, by advertisements to be published in three of the newspapers printed in this State, require all persons having any of the said bills of credit in possession, to come and exchange the said bills for gold or silver, on or before the last day of December then next ensuing; and if any of such bills shall remain in circulation after the said last day of December, they shall not be so exchanged, but shall nevertheless be received in all payments into the treasury of this State.

XII. *And be it further enacted by the authority aforesaid,* That the Treasurer shall pay the expences which shall accrue for engraving the plates, procuring the paper, printing the bills, and inspecting the printer, and all other incidental expences which may arise in or about the execution of this act, and also to each of the persons authorized to sign the bills to be emitted by virtue of this act, at the rate of two shillings for every hundred of the said bills which they shall respectively sign, and at the rate of one shilling and six pence for every hundred of the said bills which they shall respectively number; the accounts of the said expences and charges being first audited by the Auditor of this State for the time being.

XIII. *And be it further enacted by the authority aforesaid,* That if at any time before a sale by the Loan Officers, the respective mortgagers, their heirs or assigns shall pay to the Loan Officers the whole of the monies, by reason of the neglect to bring in and pay which such sale shall have been advertised, together with the expences of advertising; the Loan Officers shall not proceed to a sale; and the several mortgagers and their respective heirs and assigns shall, on such payment be, with respect to the equity of redemption, and their estate and right of, in and to the mortgaged premises, restored to and be in the same condition as if there had not been a neglect to bring in and pay the said monies, any thing in the herein recited act to the contrary notwithstanding.

C H A P. XXXI.

An ACT for apprehending and punishing disorderly Persons. Passed the 9th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all persons who threaten to run away and leave their wives or children to the city or town, and all persons who shall unlawfully return to the city or town, from whence they shall respectively have been legally removed by order of two Justices of the Peace, without bringing a certificate from the city or town whereto they respectively belong; and also all persons, who not having wherewith to maintain themselves, live idle without employment, and also all persons who go about from door to door, or place themselves in the streets, highways or passages, to beg in the cities or towns where they respectively dwell, and all juglers, and all persons pretending to have skill in physiognomy, palmistry, or like crafty science, or pretending to tell fortunes, or to discover where lost goods may be found; and all persons who run away and leave their wives or children, whereby they respectively become chargeable to any city or town; and all persons wandering abroad and lodging in taverns, beer houses, out houses, market places, or barns, or in the open air, and not giving a good account of themselves, and all persons wandering abroad and begging, and all idle persons not having visible means of livelihood, and all common prostitutes, shall be deemed and adjudged disorderly persons; and it shall and may be lawful for any Justice of the Peace to commit such disorderly persons (being thereof convicted before him, by his own view or by the confession of such offenders, respectively, or by the oath of one or more credible witness or witnesses) to the bridewell or house of correction of such city or town, there to be kept at hard labour, for any time not exceeding sixty days, or until the next General Sessions of the Peace to be holden in and for the city or county in which such offence shall happen.

Who are to be esteemed and adjudged disorderly persons.

Disorderly persons on conviction, any Justice of the Peace to commit such to bridewell or house of correction. Duration of their confinement.

And whereas, doubts have arisen and hereafter may arise, where authority is given to any Justice or Justices of the Peace to commit offenders to the bridewell or house of correction for offences cognizable before them out of the General Sessions of the Peace, how long offenders may be there detained, and in what manner treated, where the time and manner of their punishment is not by law expressly directed, limited or appointed: Therefore,

Preamble respecting the time and manner of their punishment under certain circumstances.

II. Be it further enacted by the authority aforesaid, That where any offenders shall be committed as aforesaid by virtue of any law now in being or hereafter to be made, other than in cases of petit larceny, and the time and manner of their punishment is not expressly limited, directed, and appointed, the said Justice or Justices shall commit such offender to the bridewell or house of correction, there to be kept to hard labour until the next General Sessions of the Peace, or until discharged by a due course of law; and it shall and may be lawful for two Justices (of whom the Justice who committed such offender to be one) to discharge such offender before the said General Sessions of the Peace, if they shall see cause; and if he or she shall not be so discharged, the said General Sessions of the Peace may either discharge him or her, or continue him or her in custody for such time as they shall see fit, not exceeding six months.

Offenders, except in case of petty larceny, committed, where the time and manner of their punishment is not directed, how to be punished

and discharged, not to be kept in custody longer than 6 months.

III. And be it further enacted by the authority aforesaid, That where any offender against this act shall be committed, as aforesaid, to the bridewell or house of correction, there to remain until the next General Sessions of the Peace; and the Justices at such sessions shall, on examination of the circumstances of the case, adjudge such person to be a disorderly person within the intent and meaning of this act, they may, if they think convenient, order such disorderly person to be detained and kept in the said bridewell or house of correction to hard labour, for any further time not exceeding six months; and during the time of such confinement, to be corrected by whipping, in such manner and at such times and places, as, according to the nature of such persons offence, they in their discretion shall think fit.

Offenders committed to bridewell the Justices at their sessions, to adjudge them disorderly persons, and may keep them to hard labor for any time not longer than 6 months and have them corrected.

N

IV. And

General Sessions of the peace empowered to place out certain offenders, as servants, apprentices, mariners, &c.

IV. *And be it further enacted by the authority aforesaid,* That where any person offending against this act shall have been committed, as aforesaid, to the bridewell or house of correction, there to remain until the next General Sessions of the peace, if upon the examination of the person so committed as aforesaid, the last legal place of settlement of such person cannot be found, the Justice shall, at the said General Sessions, order such persons to be detained and employed in the bridewell or house of correction until they can provide for themselves, or until the Justices of the Peace at their next General Sessions of the Peace, can place them out in some lawful calling, as servants, apprentices, mariners, or otherwise; which the said General Sessions of the Peace are hereby empowered to do, in such manner as they shall think fit.

Where the gaols in cities or counties, shall be used as houses of correction, and the gaolers to be masters of such gaols as houses of correction.

Their authority.

Preamble respecting lunatics.

V. *And be it further enacted by the authority aforesaid,* That the several gaols in the respective cities and counties in this State, in which no bridewell or house of correction is or shall be built, shall be used and considered as houses of correction for all or any of the purposes in and by this act directed, with respect to houses of correction and the government thereof, until there shall be such house or houses of correction built as aforesaid; and the keepers of the respective gaols, for the time being, or such persons as they respectively shall appoint, shall be masters or keepers of such gaols as houses of correction, as aforesaid, and shall have the same authority, and be under the same regulations, as in this act are before given and provided respecting houses of correction; and all and every person and persons ordered to be sent to a house of correction according to this act, shall be sent to and received in such gaols respectively, and there be kept, taken care of and governed according to the directions of this act, until such house or houses of correction shall be provided as aforesaid.

And whereas, there are sometimes persons who by lunacy or otherwise are furiously mad, or are so far disordered in their senses that they may be dangerous to be permitted to go abroad: *Therefore,*

How to be apprehended and treated, according as their last legal place of settlement shall, or shall not be in the place where so apprehended.

Charges of apprehending, how to be paid.

Proviso this act not to affect the Chancellor's power concerning lunatics, or the care and protection of their friends.

Preamble respecting disorderly persons able to pay for their passage or journey home.

The Justices duty thereupon.

VI. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for any two or more Justices of the Peace, where such lunatick or mad person shall be found, by warrant under their hands and seals, directed to the constables and overseers of the poor of the city or town or some of them, to cause such person to be apprehended and kept safely locked up in some secure place within such city, or within the county in which such town shall lie, as such Justices shall under their hands and seals direct and appoint; and, (if such Justices shall find it necessary) to be there chained, if the last legal place of settlement shall be in such city or in any town within such county; and if the last legal place of settlement of such person shall not be in such city or county, then such person shall be sent to the place of his or her last settlement in the manner directed in and by the laws relating to the poor, and shall be locked up or chained, by warrant from two Justices of the city or county to which such person shall be so sent in manner aforesaid; and the reasonable charges of apprehending, maintaining, keeping, and removing such person shall be satisfied and paid by the overseers of the poor of the city or town in which such person shall be legally settled as aforesaid, in the manner in and by the said laws directed: *Provided always,* that this act, or any thing therein contained, shall not extend or be construed to extend to restrain or abridge the power or authority of the Chancellor of this State for the time being, touching or concerning such lunatics; or to restrain or prevent any friend or relation of such lunatick, from taking them under their own care and protection.

And whereas, it often happens that disorderly persons wander from the places of their legal settlement, and are in circumstances sufficient to pay for their passage or journey home; *Therefore,*

VII. *Be it further enacted by the authority aforesaid,* That it shall be lawful for any Justice or Justices of the Peace, before whom any such disorderly person shall be brought, to order such disorderly person to be searched and his or her bundle to be inspected by a constable or overseer of the poor of such city or town in the presence of such Justice; and if it shall appear that any such disorderly person hath sufficient wherewithal to pay his or her passage or journey, either in the whole or in part, to the city or town to

to which he or she shall belong, then the said Justice or Justices shall order so much of the money so found to be paid, or other effects found with and upon such disorderly person, to be sold and employed for and towards the expence of taking up and passing such disorderly person to his or her last legal place of settlement; returning the overplus (if any there be) after deducting the charges of such sale, to such disorderly person.

C H A P. XXXII.

An ACT concerning Amendments and Jeofails. Passed the 20th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That by the misprision of a clerk in any place wheresoever it be, no record or process shall be annulled or discontinued by mistaking, in writing one syllable, or one letter too much or too little: But as soon as the thing is perceived by challenge of the party or in other manner, it shall be immediately amended in due form without giving advantage to the party that challengeth the same because of such misprision. * And the Justices or Judges before whom such plea or record is made or shall be depending, as well by adjournment, as by way of error, or otherwise, shall have power and authority to amend such record and process, as well after judgment as before judgment given, in any such plea, record or process, as long as the same record and process is before them. * And further, that the Judges and Justices of the courts and places, in which any record, process, declaration, count, plea, warrant of attorney, writ, pannel, or return, is or may be, while the same remains before them, shall have power to examine such records, declarations, counts, pleas, warrants of attorney, writs, pannels and returns by them, and their clerks, and to reform and amend (in affirmance of the judgments of such records and process) all that which to them, in their discretion shall seem to be misprision of the clerks in such record, process, declaration, count, plea, warrant of attorney, writ, pannel or return, so that by such misprision of the clerk no judgment shall be reversed nor annulled. And if any record, process, declaration, count, plea, warrant of attorney, writ, pannel or return be certified defective, otherwise than according to the writing which thereof remaineth in the offices, court, or places, from whence they be certified, the parties, in affirmance of the judgments of such records and process, shall have advantage to alledge that the same writing is variant from the said certificate, and that being found and certified, the same variance shall be, by the said Judges or Justices, reformed and amended according to the first writing: * And moreover, that the Judges and Justices, before whom any misprision or default is, or shall be found, in any record or process which now is, or hereafter shall be depending before them, or any of them, as well by way of error as otherwise, or in the returns of the same made or to be made by Sheriffs, Coroners or any other, by misprision of the clerks of any of the said courts, or by misprision of the Sheriffs, Under-Sheriffs, Coroners or their clerks, or other officers, clerks or other ministers whatsoever, in writing one letter or one syllable too much or too little, shall have power to amend such defaults and misprisions, according to their discretion; and by examination thereof by the said Judges and Justices to be taken where they shall think needful: And also that all such amendments may be made as well after a judgment given upon verdict, confession, nihil dicit, or non sum informatus, as upon matter of law pleaded.

II. And be it further enacted by the authority aforesaid, That, for error assigned, or to be assigned, in any record, process, warrant of attorney, writ original or judicial, pannel or return, for that in any places of the same there be rasures or interlineations, or that there be any addition, subtraction or diminution of words, letters or titles, or parcel of letters found in any such record, process, warrant of attorney, writ, pannel or return, no judgment or record shall be reversed or annulled.

III. And

Mistakes in pleas, records or processes, how and when to be amended.

14. 2. 3. c. 6

10. 4. 5. c. 4

as well after judgment as before,

by the Judges and Justices empowered so to do.

8. 4. 6. c. 12

No judgment to be reversed by misprision of a clerk.

Judges and Justices to amend defective records, process, &c. according to the first writing,

Also to amend certain defaults and misprisions, by Sheriffs, coroners, clerks,

8. 4. 6. c. 15

The extent of such amendments.

Certain errors not to affect the judgment or record.

8. 4. 6. c. 12

Certain records and processses not to be amended, &c. after judgment given.

III. *And be it further enacted by the authority aforesaid,* That the record and process of pleas real and personal, and of assises and certifications whereof judgment is given and inrolled or things touching such plea, shall in no wise be amended nor impaired by new entering of the clerks, either by the record or things certified, in no term after that such judgment in such pleas is given and enrolled.

All pleas, writs, pleadings, patents & all proceedings in courts shall be in the English tongue.

IV. *And be it further enacted by the authority aforesaid,* That all pleas which shall be pleaded in any courts whatsoever in this State, shall be pleaded, shewed, defended, answered, debated, judged, entered, and inrolled in the English tongue, and that all writs, process and returns thereof, and all proceedings thereon, and all pleadings, rules, orders, indictments, informations, inquisitions, presentments, verdicts, prohibitions, certificates, and all patents, charters, pardons, commissions, records, judgments, recognizances, bonds, rolls, entries, fines and recoveries, and all proceedings relating thereunto, and all proceedings whatsoever, in any Courts of Justice in this State, shall be in the English tongue and language only, and shall be written or printed in a good strong legible hand and character, and in words at length and not abbreviated, except such abbreviations as are now commonly used in the English language: But it shall and may be lawful to express numbers by figures, in like manner as hath been heretofore, or is now commonly used in the said courts respectively, and to express the proper and known names of writs or other process or technical words in the same language as hath been commonly used, so as the same be written or printed in a common legible hand or character.

How to be written and printed.

Exceptions as to abbreviations, and figures and technical terms.

Persons not to be prejudiced by ancient terms & forms.

V. *And be it further enacted by the authority aforesaid,* That no person shall be prejudiced by the ancient terms and forms of pleadings, so that the matter of the action be fully shewed in the writ, declaration and pleadings.

Where, in issues tried by a jury of 12 men, no default or neglect shall prevent a judgment.

VI. *And be it further enacted by the authority aforesaid,* That if any issue hath been or hereafter shall be tried by the oath of twelve men or more, for the party plaintiff or demandant, or for the party tenant or defendant, bailiff in assise, vouchee, prayee in aid, or tenant by receipt, in any manner of action, suit, bill, plaint, or demand, in any court of record, then the Judges or Justices by whom judgment thereof ought to be given, shall proceed and give judgment in the same, any mispleading, lack of colour, insufficient pleading, or jeofail; any miscontinuance or discontinuance, or misconceiving of process, misjoining of the issue, lack of warrant of attorney of the party against whom the issue shall happen to be tried, or any other default or negligence of any of the parties, or of their counsellors or attornies had or made to the contrary notwithstanding: And the judgments thereof so to be had and given, shall stand in full strength and force to all intents and purposes according to the said verdict, without any reversal or undoing of the same by writ of error or otherwise in like form as though no such default or negligence had ever been had or committed. And further, that if any verdict of twelve men or more hath been or shall be given in any action, suit, bill, plaint or demand in any Court of Record, the judgment thereupon shall not be stayed or reversed by reason of any default in form, or lack of form, touching variance from the register, or other defaults in form, in any writ original or judicial, count, declaration, plaint, bill, suit or demand, or for want of any writ, original or judicial, or by reason of any imperfect or insufficient return of any Sheriff or other officer, or for want of any warrant of attorney, or by reason of any manner of default in process upon or after any aid prayer, or voucher; nor shall any such record or judgment after verdict be reversed for any of the defects or causes aforesaid: And moreover, that if any verdict of twelve men or more hath been or hereafter shall be given for the plaintiff or demandant, or for the defendant or tenant, bailiff in assise, vouchee, prayee in aid, or tenant by receipt in any action, suit, bill, plaint or demand in any Court of Record, the judgment thereupon shall not be stayed or reversed by reason of any variance in form only between the original writ or bill, and the declaration, plaint or demand; or for lack of any averment of any life or lives of any person or persons, so as, upon examination, the said person be proved to be in life; or by reason that the *venire facias*, *habeas corpus*, or *distringas*, is awarded to a wrong officer, upon any insufficient suggestion, or by reason that any of the jury which tried the said issue is misnamed, either in the christian

Which is not to be reversed by writ of error, &c.

Cases where judgments are not to be stayed or reversed.

32. 8. c. 30

21. 1. c. 13

christian name, surname, or addition, in any of the said writs, or in any return upon any of the said writs, so as upon examination it be proved to be the same man who was meant to be returned; or by reason that there is no return upon any of the said writs, so as a pannel of the names of the jurors be returned and annexed to the said writ or writs; or for that the Sheriff's name, or other officer's name having the return thereof, is not set to the return of any such writ, so as upon examination it be proved, that the said writ was returned by the Sheriff or Under Sheriff, or any such other officer; or by reason that the plaintiff in any action of ejectment, or in any personal action or suit, (being an infant under the age of twenty-one years) did appear by attorney therein, and the verdict pass for him or her, and also that if any verdict of twelve men or more hath been or shall be given in any action, suit, bill, plaint or demand in any Court of Record, the judgment thereupon shall not be stayed or reversed for default in form or lack of form, or by reason that there are no pledges, or but one pledge to prosecute returned upon the original writ; or because the name of the Sheriff is not returned upon such original writ, or for default of entering pledges upon any bill or declaration; or for default of alledging the bringing into court any bond, bill, indenture, or other deed whatsoever, mentioned in the declaration or other pleading; or for default of alledging the bringing into court letters testamentary, or letters of administration, or by reason of the omission of the words "*with force and arms*" or "*against the peace*," or for or by reason of the mistaking of the christian name or surname of the plaintiff or defendant, demandant or tenant, sum, or sums of money, day, month, or year, by the clerk, in any bill, declaration, or pleading, where the right name, surname, sum, day, month, or year, in any writ, plaint, roll, or record preceding, or in the same roll or record where the mistake is committed, is or are once truly and rightly alledged, and to which the party might have demurred and shewn the same for cause; nor for want of the averment or words "and this he is ready to verify," or "and this he is ready to verify by the record," or for not alledging "as appears by the record," or for that there is no right venue, so as the cause was tried by a jury of the proper county or place where the action is laid; nor shall any judgment after verdict be reversed for want of entering that the person against whom such judgment is given "be in mercy," or be taken "or by reason that the words "be taken" are entered for "be in mercy" or the words "be in mercy," are entered for "be taken," nor for that in the judgment the words "it is granted," are entered for "it is considered," nor for that the increase of costs after a verdict in any action or upon a nonsuit in replevin, are not entered to be at the request of the party for whom the judgment is given, nor by reason that the costs in any judgment whatsoever are not entered to be by the consent of the plaintiff; but that all such omissions, variances, defects, and all other matters of like nature not being against the right of the matter of the suit, nor whereby the issue or trial are altered, shall be amended by the Justices or other Judges of the courts where such judgments are or shall be given or whereunto the record is or shall be removed by writ of error.

Omissions, variances, defects, &c. not being against the right of the matter of suit, &c. shall be amended.

VII. And be it further enacted by the authority aforesaid, That where any demurrer hath been or shall be joined and entered in any action or suit in any Court of Record in this State, the Judges or Justices shall proceed and give judgment according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, defect, or want of form, in any writ, return, plaint, declaration, or other pleading, process, or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer as causes of the same, notwithstanding that such imperfection, omission or defect might have heretofore been taken to be matter of substance, so as sufficient matter appear in the pleadings upon which the court may give judgment according to the very right of the cause, and therefore no advantage or exception shall be taken of, or for an immaterial traverse, or of or for the default of entering pledges upon any bill or declaration, or of or for the default of alledging the bringing into court any bond, bill, indenture, or other deed whatsoever mentioned in the declaration or other pleading, or of or for the default of alledging the bringing into court letters testamentary, or letters of administration, or of or for the omission of the words

In cases of demurrer joined, &c. Judges, &c. to give judgment, as the right of the cause, &c. shall appear without regarding imperfections, &c.

Exception.

Where no exception shall be taken.

" with

16217 Car. 2. c. 8

4 Ann. c. 16

“with force and arms”, or “against the peace,” or either of them; or of or for want of the averment or words “and this he is ready to verify,” or “and this he is ready to verify by the record;” or of or for not alledging “as appears by the record,” but the court shall give judgment according to the very right of the cause as aforesaid, without regarding any such imperfections, omissions or defects, or any other matter of like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer, and that no judgment shall be reversed by any writ of error for any such imperfection, omission, defect or want of form as is aforesaid, except such only as are before excepted; and

But the court to give judgment according to the right of the cause only, without regarding imperfections, &c.
Exception.
After demurrers joined, all imperfections shall be amended.

Exception.
Every thing herein before contained to extend to judgments on confession nihil dicit, or non sum informatus; And such judgments shall not be reversed, &c. for certain imperfections, &c. the original writ &c. being duly filed.

VIII. *And be it further enacted by the authority aforesaid*, That every thing herein before contained, shall extend to all judgments which have been or shall be entered upon confession, *nihil dicit*, or *non sum informatus*, in any Court of Record; and no such judgment shall be reversed, nor any judgment upon any writ of inquiry of damages executed thereon, be stayed or reversed, for or by reason of any imperfection, omission, defect, matter, or thing whatsoever, which would have been aided and cured by this act, in case a verdict of twelve men had been given in the said action or suit, so as there be an original writ or bill duly filed according to law.

IX. *And be it further enacted by the authority aforesaid*, That all writs of error wherein there shall be any variance from the original record, or other defect, may and shall be amended, and made agreeable to such record by the respective courts where such writ or writs of error are or shall be made returnable: And that where any verdict hath been or shall be given in any action, suit, bill, plaint, or demand in any Court of Record, the judgment thereupon shall not be stayed or reversed for any defect or fault, either in form or substance; in any bill, writ original or judicial, or for any variance in such writs from the declaration or other proceedings.

X. *And be it further enacted by the authority aforesaid*, That this act shall extend to all suits in any Court of Record for recovery of any debt due to the people of this State, or for any debt, duty, or revenue belonging to them, and also to all writs of mandamus and informations in the nature of a *quo warranto*, and to the proceedings thereon.

XI. *Provided always, and be it further enacted by the authority aforesaid*, That this act or any thing therein contained, shall not extend to any writ, declaration, or suit of appeal of felony or murder, nor to any indictment or presentment of felony, murder, treason, or other matter, nor to any process upon any of them; nor to any writ, bill, action, or information, upon any popular or penal statute, nor to any outlawry or any process thereupon, or in order thereunto.

C H A P. XXXIII.

An ACT for giving Relief on promissory Notes. Passed the 20th February, 1788.

Promissory notes signed by any person or factor, &c. made payable

3d 4. Ann. c. 9.

BE it enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all notes in writing already made, or hereafter to be made and signed by any person or persons, or by the factor or agent of any merchant or trader who is usually intrusted by him, her or them to sign such promissory note for him, her, or them, whereby such person or persons, his, her, or their factor or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politic or corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall be taken and construed to be by virtue thereof due and payable to any such person or persons, body politic or corporate, to

to whom the same is or shall be made payable; and also every such note payable to any person or persons, body politic or corporate, his, her, or their order, shall be assignable or indorseable over to any other person or persons, body politic or corporate; and that the person or persons, body politic or corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for, and recover the money made payable by such note against the person or persons who, or whose factor or agent as aforesaid signed the same; and that any person or persons, body politic or corporate, to whom such note that is payable to any person or persons, body politic or corporate, his, her, or their order, is or shall be indorsed or assigned, or the money therein mentioned ordered to be paid by indorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons who, or whose factor or agent as aforesaid signed such note, or against any of the persons who indorsed the same; and in every such action the plaintiff or plaintiffs shall recover his her or their damages and costs of suit: And if such plaintiff or plaintiffs shall be non-suited, or a verdict be given against him her or them, the defendant or defendants shall recover his her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, or defendant or defendants, respectively, recovering, may sue out execution for such damages and costs, by *capias ad satisfaciendum*, or *fieri facias*, as is usual in other cases.

and assignable to any person, &c. who can recover the money made payable by such notes.

Endorsers of notes make themselves accountable.

Damages and costs allowed to plaintiffs, Plaintiffs nonsuited, &c. costs allowed to defendants.

Execution for damages, &c.

C H A P. XXXIV.

An ACT for preventing any Inconveniences that may happen by Privilege. Passed the 20th of February. 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That from and after the passing of this act, any person or persons shall and may commence and prosecute any action or suit in any Court of Record in this State, against any Senator or member of Assembly for the time being or against their or any of their servants, or any other person entitled to the privilege of either house of the Legislature, at any time from and immediately after the prorogation or adjournment of the Legislature, until a new Legislature shall meet, or the same be reassembled; and from and immediately after any adjournment of both houses of the Legislature for above the space of fourteen days, until both houses shall meet or reassemble; and that the said respective Courts of Record shall and may, after such prorogation or adjournment as aforesaid, proceed to give judgment, or to make final orders, decrees and sentences, and award execution thereupon, as such court may now lawfully do against other persons, liable to be arrested and imprisoned; any law, usage or custom to the contrary thereof notwithstanding. *Provided always*, That no member of the Legislature, or his servant or servants, shall be liable to arrest, on any civil process, while coming to, or returning from the place where the Legislature shall sit, to the place of such member's residence, but such time of coming or returning, shall not exceed fourteen days.

When members, &c. of the Legislature may be sued.

When the courts shall give judgment, &c. against them.

Provido.

When no member, &c. shall be liable to arrest on civil process.

II. *And be it further enacted by the authority aforesaid*, That where any plaintiff or plaintiffs shall, by reason or occasion of any privilege of either House of the Legislature, be stayed or prevented from prosecuting any suit by him, her, or them commenced, such plaintiff or plaintiffs, shall not be barred by any statute of limitation, or nonsuited, dismissed, nor his, her, or their suit discontinued for want of prosecution of the suit, by him, her, or them begun; but may, after the time aforesaid, be at liberty to proceed to judgment and execution thereupon, as aforesaid.

Plaintiffs, by reason of privilege, prevented from prosecuting, shall not be barred, &c.

And whereas it is just and reasonable that persons employed in offices and places of public trust should at all times be accountable for any misdemeanors therein, and the public justice of the State requireth a vigorous prosecution of such offenders: Therefore,

Preamble. Respecting misdemeanors in public trust.

III. Be

Officers in the revenue, &c. or in any public trust may be prosecuted for any forfeiture, &c.

and allowed no privilege tho' members of the Legislature.

III. *Be it further enacted by the authority aforesaid,* That any action or suit shall and may be commenced, and prosecuted in any Court of Record in this State, against any officer or person intrusted, or employed in the revenue of this State, or any part or branch thereof, or in any other office or place of public trust, for any forfeiture, misdemeanor, or breach of trust, of, in, or relating to such office or place of trust, or any penalty imposed by law to enforce the due execution thereof; and that no such action, suit or any other process, proceeding, judgment or execution thereupon, although such officer or person shall be a member of the Senate or Assembly, shall be impeached, stayed, or delayed, by or under colour or pretence of any privilege of either house of the Legislature.

C H A P. XXXV.

An ACT to prevent excessive and deceitful Gaming. Passed the 20th of February, 1788.

Preamble.

WHEREAS the laws now in force, for preventing the mischiefs which happen by gaming have been found insufficient; For remedy whereof.

All notes, bills, bonds mortgages for money, &c. won by gaming or betting on games, &c. &c. made void and of none effect.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all notes, bills, bonds, judgments, mortgages, or other securities, or conveyances whatsoever, given, granted, drawn, or entered into, or executed by any person or persons whatsoever, where the whole or any part of the consideration of such notes, bills, bonds, judgments, mortgages or other securities, or conveyances, shall be for any money, or other valuable thing or things whatsoever, won by gaming or playing at cards, dice, tables, billiards, tennis, bowls, shuffle board, or other game or games whatsoever; or by betting on the sides or hands of such as do play at any of the games aforesaid; or for the reimbursing or repaying any money knowingly lent or advanced for such gaming or betting as aforesaid, or lent or advanced at the time and place of such play, to any person or persons so gaming or betting as aforesaid; or that shall, during such play, so play or bet, shall be utterly void, frustrate and of non effect, to all intents and purposes whatsoever, any law or usage to the contrary thereof in any wise notwithstanding; And that where such mortgages, securities, or other conveyances, shall be of lands, tenements or hereditaments, or shall be such as incumber or affect the same, such mortgages, securities or other conveyances shall enure and be to and for the sole use and benefit of, and shall devolve upon such person or persons as should or might have, or be entitled to, such lands, tenements or hereditaments, in case the grantor or grantors thereof, or other person or persons so incumbering the same had been naturally dead; and as if such mortgages, securities or other conveyances had been made to such person or persons so to be intitled after the decease of the person or persons so incumbering the same; and that all grants and conveyances to be made for the preventing of such lands, tenements or hereditaments from coming to or devolving upon such person or persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none effect, to all intents and purposes whatsoever.

And such mortgages or other conveyances, to devolve upon such as would be intitled to them, were the mortgagers, &c. dead.

Any person losing money or things by gaming, to the value of 10l. may recover them by suit from the winner.

II. *And be it further enacted by the authority aforesaid,* That any person or persons whatsoever, who shall at any time or sitting, by playing at cards, dice, tables, billiards, tennis, bowls, shuffle board or other game, or games whatsoever, or by betting on the sides or hands of such as do play at any of the games aforesaid, lose to any one or more person or persons so playing or betting, in the whole, the sum of ten pounds in money, or any other thing or things of the value of ten pounds, or in money and any other thing or things to the amount of ten pounds lawful money of this State, and shall pay or deliver the same or any part thereof, it shall and may be lawful for the person or persons so losing and paying or delivering the same money and other thing or things, or either of them, within three months next thereafter, to sue for and recover

recover the money, or value of the thing or things so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt founded on this act, in any Court of Record within this State having cognizance of the same: in which actions it shall be sufficient for the plaintiff or plaintiffs to alledge in his, her or their declaration, that the defendant or defendants is, or are indebted to the plaintiff or plaintiffs in the monies so lost and paid, or in the amount or value of the thing or things so lost and delivered, for so much money had and received by such defendant or defendants to the plaintiffs use, whereby an action hath accrued to the plaintiff or plaintiffs according to the form of this act without setting forth the special matter: And in case the person or persons, who shall lose such money or other thing or things as aforesaid, shall not within the time aforesaid really and *bona fide* and without covin or collusion, sue and prosecute with effect for the money or other thing or things so by him or them lost and paid or delivered as aforesaid, it shall and may be lawful for any person or persons by any such action or suit as aforesaid, to sue for and recover the same, and treble the amount or value thereof, with costs of suit against such winner or winners as aforesaid; the one moiety of such forfeiture when recovered, to be paid to the overseers of the poor of the city or town in which such offence shall be committed, and the other moiety to the person or persons who will sue for the same. And for the better discovery of the monies or other thing or things so won and to be sued for and recovered as aforesaid:

The loser not prosecuting in 3 months any other person may prosecute and recover the one moiety to his own use and the other to the overseers of the poor.

III. *Be it further enacted by the authority aforesaid,* That all and every person or persons who, by virtue of this act shall or may be liable to be sued for the same, shall be obliged and compellable to answer upon oath, such bill or bills as shall be exhibited and filed in any Court of Equity against him or them for discovering the sum and sums of money, or other thing or things so won at play as aforesaid, contrary to the true intent and meaning of this act: And it shall and may be lawful for such court in which such bill shall be brought, exhibited and filed, to proceed and decree thereupon, and enforce such decree or decrees as shall be made in pursuance thereof in the same manner as is practised and used in other causes upon bills and answers depending in the courts where such bill shall be so brought, exhibited, and filed. *Provided always,*

To discover money and things won at play, every person obliged to answer on oath.

And the court to decree thereupon.

IV. *And be it further enacted by the authority aforesaid,* That upon the discovery and re-payment, or re-delivery of the money or other thing or things so to be discovered and repaid or re-delivered as aforesaid; the person or persons who shall so discover and repay or re-deliver the same as aforesaid, shall be acquitted, indemnified and discharged from any further or other punishment, forfeiture or penalty which he, she, or they may have incurred by the playing for or winning such money or other thing or things so discovered and repaid or re-delivered as aforesaid; any former law, or any thing in this act contained to the contrary thereof in any wise notwithstanding.

Persons discovering and paying, &c. discharged from further punishment or penalty.

V. *And be it further enacted by the authority aforesaid,* That if any person or persons whatsoever do or shall, by any fraud or shift, couzenage, circumvention, deceit, or unlawful device or ill practice whatsoever, in playing at or with cards, dice or any of the games aforesaid, or in or by bearing a share or part in the stakes, wagers, or adventures in, or betting on the fides or hands of such as do or shall play as aforesaid, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever; or shall at any one time or sitting win of any one or more person or persons whatsoever above the sum or value of *ten pounds*; that then every person or persons so winning by such ill practice as aforesaid, or winning at any one time or sitting above the sum or value of *ten pounds*, and being convicted of any of the said offences, upon any indictment or information to be exhibited against him, her or them for that purpose, shall forfeit five times the value of the sum or sums of money, or other thing or things so won as aforesaid; and in case of such ill practice as aforesaid, the person or persons so winning as aforesaid, shall be deemed infamous, and suffer such corporal punishment as in cases of wilful and corrupt perjury; and such penalty shall and may be recovered by any person or persons who shall sue for the same in manner aforesaid; and, when recovered, shall be appropriated as herein above directed.

Persons winning by fraud, deceit, &c. any sum of money &c.

or winning at one sitting above 10l. shall forfeit 5 times the value.

Winners by deceit, &c. deemed infamous and to suffer corporal punishment. Penalty how to be recovered.

Certain gamesters
indictable within
one year, and being
convicted fined in
five times the value
lost or won.

How to be appli-
ed.

When offenders
shall be indemnified
on discovering o-
thers.

None but parties
incapacitated from
being a witness,

Preamble respec-
ting lewd and disso-
lute persons.

When Justices
shall bind such to
good behaviour or
commit them.

Persons so bound
playing for above
20s. to forfeit their
recognizance.

Unreasonable dis-
tresses taken, pun-
ished by fine, &c.
52 H 3 c. 4

Wrongful dis-
tresses,

VI. *And be it further enacted by the authority aforesaid,* That if any person shall win or lose at play, or by betting, at any time, the sum or value of *ten pounds*, or upwards; or within the space of twenty-four hours, the sum or value of *twenty pounds*, such person shall be liable to be indicted for such offence at any time within one year after it is committed, either in the Supreme Court, or in any Court of Oyer and Terminer or Gaol Delivery; and being thereof legally convicted, shall be fined five times the value of the sum so lost or won; which fine (after such charges as the court shall judge reasonable to allow to the prosecutors and witnesses out of the same) shall be paid to the overseers of the poor of the city or town where such offence shall be committed, for the use of the poor thereof. *Provided always,*

VII. *And be it further enacted by the authority aforesaid,* That if any person so offending shall discover any other person so offending, so that such person be thereupon convicted, the person so discovering shall be discharged and indemnified from all penalties by reason of any such offence, if such person so discovering hath not been before convicted thereof, and he shall be admitted as an evidence to prove the same.

VIII. *And be it further enacted by the authority aforesaid,* That no person or persons others than the parties, plaintiff, or defendant in the cause, shall be incapacitated from being a witness touching any offence committed against this act by reason of having played, betted, or staked at any game prohibited by this act.

And whereas divers lewd and dissolute persons live at great expences, having no visible estate, profession or calling to maintain themselves, but support those expences by gaming only: *Therefore,*

IX. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for any two or more Justices of the Peace in any city or county within this State, to cause to come or be brought before them every person within their respective cities or counties, whom they shall have just cause to suspect to have no visible estate, profession or calling to maintain themselves by, but who do for the most part support themselves by gaming; and if such person or persons shall not make it appear to such Justices that the principal part of his or their expences are not maintained by gaming, that then such Justices shall require of him or them sufficient sureties for his or their good behaviour for the space of twelve months; and in default of his or their finding such sureties, to commit him or them to the common gaol of the city or county, there to remain until he or they shall find such sureties as aforesaid.

X. *And be it further enacted by the authority aforesaid,* That if such person or persons so finding sureties as aforesaid, shall during the time for which he or she shall be so bound to the good behaviour at any one time or sitting, play or bet for any sum or sums of money, or other thing exceeding in the whole the sum or value of *twenty shillings*, that then such playing shall be deemed or taken to be a breach of his, her, or their good behaviour, and a forfeiture of the recognizance given for the same.

C H A P. XXXVI.

An ACT concerning Distresses, and for the better Security and more easy recovery of Rents and renewal of Leases, and to prevent frauds by Tenants. Passed the 21st. of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That all distresses made or taken for any cause whatsoever, shall be reasonable and not too great; and whosoever shall take great and unreasonable distresses shall be punished by fine for the excess of such distresses, and shall answer the damages to the party aggrieved.

II. *And be it further enacted by the authority aforesaid,* That no person shall take any distress wrongfully, or distrain in the highway or common street, or cause any distress that he or she shall take to be driven out of the county where it shall be taken

ken: and every person who shall do so, of his or her own authority and without judgment, shall be punished by fine, as for a thing done against the peace, and shall answer the damages to the party aggrieved.

The penalty.

III. *And be it further enacted by the authority aforesaid,* That no person shall be distrained for any cause whatsoever, by his or her beasts of the plough, or sheep, or by the implements of his or her trade, but until other distress or chattels whereof the debt may be levied or sufficient for the demand can be found, (except the distraining and impounding beasts found on the ground of any person damage feasant, according to the custom of this State.)

What things shall not be distrained:

51 H 3 §. 4

Exception:

IV. *And be it further enacted by the authority aforesaid,* That when any beasts are distrained for any cause whatsoever, they shall be put in open pound, in the same county where they shall be taken; and they to whom the beasts do belong may give them their feeding without disturbance, so long as they shall be impounded:

Beasts distrained where to be put.

V. *And be it further enacted by the authority aforesaid,* That where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained shall not within five days next after such distress taken, and notice thereof, (with the cause of such taking) left at the chief mansion house or other most notorious place on the premises, charged with the rent distrained for, replevy the same with sufficient security to be given to the Sheriff, according to law; that then in such case, after such distress and notice as aforesaid, and expiration of the said five days, the person distraining shall and may, with the Sheriff or Under Sheriff of the county, or with the constable or other officer of the town or place where such distress shall be taken, (who are hereby required to be aiding and assisting therein) cause the goods and chattels so distrained to be appraised by two sworn appraisers, (whom such Sheriff, Under-Sheriff, constable or other officer as aforesaid, are hereby empowered to summon for that service, and to swear well and truly to appraise the same, according to the best of their understanding) and after such appraisement, shall and may lawfully sell at public vendue, the goods and chattels so distrained for the best price that can be gotten for the same, (giving three days public notice) towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement and sale; leaving the overplus, (if any) in the hands of the said Sheriff, Under-Sheriff, constable or officer, for the owner's use.

Goods and chattels distrained, when & how to be appraised and sold.

2 W & M Sep.
2. c. 5

Appraisers oath

VI. *And be it further enacted by the authority aforesaid,* That it shall be lawful for any person or persons having rent in arrear, and due upon any such demise lease or contract, as aforesaid, to seize and secure any sheaves, or cocks of corn, or corn loose or in the straw, or hay lying or being in any barn or granary, or upon any hovel, stack or rick, or elsewhere upon any part of the land charged with such rent, and to lock up or detain the same, in the place where the same shall be found, for and in the nature of a distress, until the same shall be replevied, upon such security to be given as aforesaid; and in default of replevying the same as aforesaid, within the time aforesaid, to sell the same after the appraisement thereof, in manner as above directed; *And further,* it shall be lawful for such landlord or lessor to take and seize as aforesaid, any cattle or stock of such tenant or tenants feeding or depasturing upon any common appendant, or appurtenant, or any ways belonging to the premises demised or holden; and also to take and seize all sorts of corn and grass, roots or other produce, growing or being thereon, as distress for arrears of rent, and the same to cut, gather, make, cure, carry and lay up in some convenient place on the premises, and for want thereof in some other place to be procured by such landlord, (due notice of such place being given to such tenant or lessee, or left at his place of abode) and within the time and in manner herein before directed, to appraise, sell or dispose of the same.

Landlords may distrain corn or hay for arrears of rent.

H. H.

Also cattle any-
wise belonging to
the premises, & all
sorts of produce.

The latter clause differs from the 2. Statute in the place of impounding the distress. By the 2. Statute it must be impounded on the premises. 11. Geo. 2 c. 19

VII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for any person, lawfully taking any distress, to impound or otherwise secure the distress so made, of whatever nature or kind it may be, in such place, or on such part of the premises as shall be most convenient for the purpose, and to appraise, sell and dispose of the same upon the premises, in like manner as any person taking a distress for rent may do off the premises, by virtue of this act, and it shall be lawful for any person or persons

Any lawful distresses may be impounded, as distresses of rent.

11. Geo. 2 c. 19

persons to come and go to and from such place or part of the said premises, in order to view, appraise, and buy, and also to carry off and remove the same.

Persons grieved by pound breach or rescous, to recover treble damages.

2 W. & M. Jeph.
2 c. 5.

VIII. *And be it further enacted by the authority aforesaid,* That upon any pound breach, or rescous of goods or chattels distrained for rent, the person or persons grieved thereby, shall in a special action upon the case for the wrong thereby sustained, recover his and their treble damages and costs of suit against the offender or offenders in any such rescous or pound breach, any or either of them, or against the owner of the goods distrained, in case the same be afterwards found to have come to his use or possession. *Provided always, and*

Persons distraining where no rent is due.

Owners of goods so distrained, to have double the value.

Sh. Sh.

IX. *Be it further enacted by the authority aforesaid,* That in case any such distress and sale as aforesaid shall be made by virtue or colour of this present act for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him or them in whose name or names, or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattels distrained and sold as aforesaid, his executors or administrators shall and may, by action of trespass or upon the case to be brought against the person or persons so distraining any or either of them, his or their executors or administrators, recover double of the value of the goods or chattels so distrained and sold together with full costs of suit.

Satisfaction given to persons aggrieved by parties distraining irregularly, &c.

11 Geo. 2 c. 14

X. *And be it further enacted by the authority aforesaid,* That where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party or parties distraining, or by his, her, or their agent or agents, the distress itself shall not be therefore deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers *ab initio*: But the party or parties aggrieved by such unlawful act or irregularity shall and may recover full satisfaction for the special damages he, she, or they shall have sustained thereby, and no more, in an action of trespass or on the case, at the election of the plaintiff or plaintiffs: *Provided always,* that where the plaintiff or plaintiffs shall recover in such action, he, she or they, shall be paid his, her or their full costs of suit, and have all the like remedies for the same as in other cases of costs: But that no tenant or tenants, lessee or lessees, shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends hath been made, by the party or parties distraining, his, her, or their agent or agents, before such action brought.

Proviso.

Previous tender of amends made to bar recovery by action, &c.

Where persons entitled to rents being sued, may plead the general issue, &c.

Sh. Sh.

XI. *And be it further enacted by the authority aforesaid,* That in all actions of trespass, or upon the case, to be brought against any person or persons entitled to any rents or services of any kind, his, her, or their bailif, or receiver or other person or persons, relating to any entry by virtue of this act or otherwise upon the premises chargeable with such rents or services, or to any distress or seizure, sale or disposal of any goods or chattels thereupon, it shall and may be lawful to and for the defendant or defendants in such actions to plead the general issue, and give the special matter in evidence; any law or usage to the contrary notwithstanding: And in case the plaintiff or plaintiffs shall become non suit, discontinue his, her, or their action, or have judgment against him, her, or them, the defendant or defendants shall recover double costs of suit.

Goods, &c. taken by execution not to be removed until rents due are secured.

8 Ann. c. 14

Proviso, respecting arrears of rent, one year's whereof being paid judgment to be executed.

XII. *And be it further enacted by the authority aforesaid,* That no goods or chattels whatsoever, in or upon the demised premises, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall, before the removal of such goods from off the said premises by virtue of such execution pay to the landlord of the said premises, or his bailif, all and every sum or sums of money due for rent for the said premises at the time of the taking such goods or chattels, by virtue of such execution: *Provided,* the said arrears of rent do not amount to more than one years rent; and in case the said arrears shall exceed one year's rent, then the said party at whose suit such execution is sued out, paying the said landlord or his bailif one year's rent, may proceed to execute his judgment as he might have done before the making of this act; and the Sherif or other officer is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money.

XIII. *And*

XIII. *And be it further enacted by the authority aforesaid,* That in case any such lessee for life or lives, term of years, at will, or otherwise, shall convey or carry off or from such demised premises, his or her goods or chattels, leaving the rent unpaid, it shall and may be lawful for such lessor or landlord, or any person or persons by him or her for that purpose lawfully empowered, within the space of thirty days next after such conveying away, or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels wherever the same shall be found, as a distress for the said arrears of rent; and the same to sell or otherwise dispose of in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord, in and upon such premises for such arrears of rent; any law, custom or usage to the contrary in any wise notwithstanding. *Provided nevertheless,* That nothing in this act contained shall extend or be construed to extend to empower such lessor or landlord to take or seize any goods or chattels as a distress for arrears of rent which shall be sold *bona fide*, and for a valuable consideration, before such seizure made, to any person not privy to such fraud; any thing herein contained to the contrary notwithstanding.

Within 30 days
landlords may
seize certain goods,
&c. for arrears of
rents, &c.

8 Ann. c. 14
11 Geo. 2 c. 19

Goods sold not to
be seizable.

And to deter tenants from such conveying away their goods and chattels, leaving the rent unpaid, and others from wilfully aiding or assisting therein, or concealing the same,

XIV. *Be it further enacted by the authority aforesaid,* That if any such tenant or lessee shall remove and convey away his or her goods or chattels as aforesaid, or if any person or persons shall wilfully and knowingly aid or assist any such tenant or lessee in such conveying away or carrying off any part of his or her goods or chattels, or in concealing the same, all and every person or persons so offending shall forfeit and pay to the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, from whose estate such goods and chattels were so carried off, as aforesaid, double the value of the goods by him, her, or them, respectively, carried off or concealed, as aforesaid; to be recovered by action of debt in any Court of Record.

Where a penalty
of double the value
of goods, &c. on te-
nants &c. removing
them off the pre-
mises.

11 Geo. 2 c. 19

XV. *And be it further enacted by the authority aforesaid,* That where any goods or chattels shall be conveyed or carried away, as aforesaid, by any tenant or tenants, lessee or lessees, his, her, or their servant or servants, agent or agents, or other person or persons, aiding or assisting therein, shall be put, placed or kept in any house, barn, stable, out-house, yard, close or place, locked up, fastened or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her or their heirs or assigns, or his, her or their steward, bailif, receiver, or other person or persons empowered, to take and seize, as a distress for rent, such goods and chattels (first calling to his, her, or their assistance, the constable or other peace officer of the town or place where the same shall be suspected to be concealed, who are hereby required to aid and assist therein, and in case of a dwelling house, oath being also first made before some Justice of the Peace, of a reasonable ground to suspect that such goods or chattels are therein) in the day time to break open and enter into such house, barn, stable, out-house, yard, close or place, and to take and seize such goods and chattels for the said arrears of rent, as he, she or they might have done by virtue of this act, if such goods and chattels had been put in any open field or place.

How goods, &c.
conveyed away, may
be seized as a dis-
tress for rent:

H. H.

XVI. *And be it further enacted by the authority aforesaid,* That it shall be lawful for any person or persons having any rent in arrear or due upon a lease or demise for life or lives, to bring an action or actions of debt for such arrears of rent, in the same manner as they might have done in case such rent was due and reserved upon a lease for years.

Rents due on
leases for lives, to be
sued for as due on
leases for years.

8 Ann. c. 14 s. 4

And whereas, tenants *pour autre vie*, and lessees for years or at will frequently hold over the tenements to them demised, after the determination of such lease: *And whereas* after the determination of such, or any other leases, no distress can by law be made for any arrears of rent that grew due on such respective leases before the determination thereof: *For remedy whereof,*

XVII. *Be it further enacted by the authority aforesaid,* That it shall be lawful for any person or persons having any rent in arrear and due upon a lease for life or lives, or for years or at will, ended or determined, to distrain for such arrears after the determination

The mode of de-
straining after cer-
tain leases are ended
the same as if they
had not been ended:

of 8 Ann. c. 14

Q

of the said respective leases, in the same manner as they might have done if such lease or leases had not been ended or determined. *Provided*, That such distress be made within the space of six kalendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

And whereas by the common law, the executors or administrators of tenants in fee simple, or for term of life, of rent service, rent charge, rent seck, and fee farms, have no remedy to recover such arrearages of the said rents of fee farms, as were due unto their testators or intestates in their lives, nor may the heirs of such testator, nor any person having the reversion of his or her estate after his or her decease, distrain or have any lawful action to levy any such arrears of rents or fee farms: *For remedy whereof*,

Where executors,
&c. may sue for ar-
rearages,

32 H. 3. c. 37.

Where executors,
&c. may sue for ar-
rearages,

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XVIII. *Be it further enacted by the authority aforesaid*, That the executors or administrators of every such person and persons unto whom any such rent or fee farm is or shall be due and not paid at the time of his, her, or their death, shall and may have an action of debt for all such arrearages against the tenant or tenants who ought to have paid the said rent or fee farms so being behind in the life of the testator or intestate, or against the executors or administrators of the said tenant or tenants: *And further*, That it shall be lawful for every such executor and administrator of any such person or persons unto whom such rent or fee farm is or shall be due and not paid at the time of his, her, or their death as aforesaid, to distrain for the arrearages of all such rents and fee farms upon the lands, tenements and hereditaments which were, are, or shall be charged with the payment of such rents or fee farms, and chargeable to the distress of the testator or intestate so long as the said lands, tenements or hereditaments continue, remain and be in the seisin or possession of the said tenant in demesne, who ought immediately to have paid the said rent or fee farm so being behind, to the said testator or intestate in his or her life time, or in the seisin or possession of any other person or persons claiming the said lands, tenements, and hereditaments, only by or from the said tenant by purchase, gift or descent, in like manner and form as their testator or intestate might or ought to have done in his or her life time; and the said executors or administrators shall for the same distress lawfully make avowry upon their matter aforesaid, and make appraisement and sale of such distress in the manner aforesaid.

Husbands in right
of their wives shall
have an action of
debt for arrearages,
and may also de-
strain after as well
as before the death
of their wives.

H. H.

XIX. *And be it further enacted by the authority aforesaid*, That if any man who now hath, or shall hereafter have, in the right of his wife, any estate in fee simple, or for term of life, of or in any rents or fee farms, and the same rents or fee farms now be, or hereafter shall be due, behind and unpaid in the said wife's life time; then the said husband, after the death of his said wife, his executors or administrators shall have an action of debt for the said arrearages against the tenant of the demesne who ought to have paid the same, his or her executors or administrators: *And further*, That the said husband after the death of his said wife may distrain for the said arrearages in like manner and form as he might have done if his wife had been then living, and make avowry upon his matter as aforesaid, and make appraisement and sale of such distress in the manner aforesaid.

Certain rents un-
paid at the death of
persons on whose
lives the estate de-
pends, how reco-
vered.

H. H.

XX. *And be it further enacted by the authority aforesaid*, That if any person who now hath or hereafter shall have any rents or fee farms, for term of life or lives of any other person or persons, and the said rent or fee farm now be or hereafter shall be due and behind and unpaid, in the life of such person or persons for whose life or lives the estate of the said rent or fee farm did depend or continue, and after the said person or persons do die, then he or she to whom the said rent or fee farm was due in form aforesaid, his or her executors or administrators shall and may have an action of debt against the tenant in demesne who ought to have paid the same when it was first due, his or her executors or administrators; and also may distrain for the same arrearages upon the lands and tenements out of which the said rents or fee farms were issuing and payable in such like manner and form as he or she ought or might have done, if the person or persons by whose death the aforesaid estate in the said rents and fee farms determined and expired, were in full life; and the avowry for the taking of the same distress to make in manner and form aforesaid, and make appraisement and sale of such distress in manner aforesaid.

XXI.

4 Geo. 2 c. 28

XXI. *And be it further enacted by the authority aforesaid,* That in case any tenant or tenants for any term of life, lives, or years, or other person or persons who are or shall come into possession of any lands, tenements or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall wilfully hold over any lands, tenements or hereditaments, after the determination of such term or terms, and after demand made, and notice in writing given for delivering the possession thereof by his or their landlord or lessor, or the person or persons to whom the remainder or reversion of such lands, tenements or hereditaments shall belong, his or their agent or agents thereunto lawfully authorized; then and in such case such person or persons so holding over, shall for and during the time he, she or they shall so hold over or keep the person or persons entitled out of possession of the said lands, tenements or hereditaments, as aforesaid, pay to the person or persons so kept out of possession, his, her, or their executors, administrators or assigns, at the rate of double the yearly value of the lands, tenements or hereditaments so detained, for so long time as the same are detained; to be recovered in any Court of Record in this State, by action of debt, whereunto the defendant or defendants shall be obliged to give special bail; and against the recovering of which said penalty there shall be no relief in equity.

Persons holding over by collusion, &c. to pay double the yearly value of the lands, &c.

To be recovered by action of debt.

XXII. *And be it further enacted by the authority aforesaid,* That in case any tenant or tenants shall give notice of his, her, or their intention to quit the premises by him, her, or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, that then the said tenant or tenants, his, her, or their executors or administrators, shall from thenceforward pay to the landlord or lessor, his or her heirs or assigns, double the rent or sum which he, she, or they should otherwise have paid; to be levied, sued for and recovered at the same times, and in the same manner as the single rent or sum, before the giving such notice, could be levied, sued for or recovered; and such double rent or sum shall be continued to be paid during all the time such tenant or tenants shall continue in possession as aforesaid.

The penalty for not delivering up possession shall be double the rent.

11 Geo. 2 c. 19.

And whereas great inconveniencies may happen to lessors and landlords, in cases of re-entry for non payment of rent, by reason of the many niceties that attend re-entries at common law, and for as much as when a legal re-entry is made, the landlord or lessor must be at the expence, charge and delay of recovering in ejectment, before he can obtain the actual possession of the demised premises: *For remedy whereof,*

Preamble respecting inconveniences in cases of re-entry for non payment of rent.

XXIII. *Be it further enacted by the authority aforesaid,* That in all cases between landlord and tenant, as often as it shall happen, that one half years rent shall be in arrear, and the landlord or lessor to whom the same is due hath right by law to re-enter for the non-payment thereof; such landlord or lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premises, or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then affix the same upon the door of any demised messuage, or in case such ejectment shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements or hereditaments comprised in such declaration in ejectment; and such affixing shall be deemed legal service thereof; which service or affixing such declaration in ejectment shall stand in the place and stead of a demand and re-entry; and in case of judgment against the casual ejector, or non-suit for not confessing lease, entry and ouster, it shall be made appear to the court where the said suit is depending, by affidavit, or be proved upon the trial, in case the defendant appears, that half a year's rent was due before the said declaration was served, and that no sufficient distress was to be found on the demised premises countervailing the arrears then due, and that the lessor or lessors in ejectment had power to re-enter, then and in every such case the lessor or lessors in ejectment shall have judgment and execution in the same manner as if the rent in arrear had been legally demanded and re-entry made; and in case the lessee or lessees, his, her or their assignee or assignees, or other person or persons claiming or deriving title under the said lease, shall suffer judgment on such ejectment, and execution to be executed thereon, without paying the rent and arrears together with full costs, and without filing any bill or bills for relief in equity, within

Mode of recovering demised premises, by serving declaration in ejectment, &c.

4 Geo 2 c. 28.
5.2

Rights of mortgagees saved, they paying arrears in six months.

When lessees, &c. shall have injunctions against proceedings of the plaintiffs in ejectment.

What lessors of plaintiffs shall be accountable for.

Tenants, &c. before trial in ejectment, tendering rents, &c. further proceedings to cease.

Lessees, relieved in equity, to hold lands without a new lease.

New leases good and valid without surrender of under leases.

six kalender months after such execution executed; then and in such case the said lessee or lessees, his, her, or their assignee or assignees, and all other persons claiming and deriving title under the said lease shall be barred and foreclosed from all relief or remedy in law or equity, other than by writ of error for reversal of such judgment in case the same shall be erroneous; and the said landlord or lessor shall from thenceforth hold the same demised premises, discharged from such lease or contract; and if on such ejectment a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited therein, except for the not confessing lease, entry and ouster, then and in every such case, such defendant or defendants shall have and recover his, her and their full costs: *Provided always*, that nothing herein contained shall extend to bar the right of any mortgagee or mortgagees, of such lease or any part thereof, who shall not be in possession, so as such mortgagee or mortgagees shall and do within six kalender months, after such judgment obtained and execution executed, pay all rent in arrear and all costs and damages sustained by such lessor or person or persons intitled to the remainder or reversion, as aforesaid, and perform all the covenants and agreements which on the part and behalf of the first lessee or lessees are and ought to be performed.

XXIV. *And be it further enacted by the authority aforesaid*, That in case the said lessee or lessees, his, her or their assignee or assignees, or other person or persons claiming any right, title or interest in law or equity, of in or to the said lease, shall, within the time aforesaid, file one or more bill or bills for relief in any court of equity, such person or persons shall not have or continue any injunction against the proceedings at law on such ejectment, unless he, she or they do or shall within forty days next after a full and perfect answer shall be filed by the lessor or lessors of the plaintiff in such ejectment, bring into court and lodge with the proper officer such sum and sums of money as the lessor or lessors of the plaintiff in the said ejectment shall in his her, or their answer swear to be due and in arrear over and above all just allowances, and also the costs taxed in the said suit, there to remain until the hearing of the cause, or to be paid out to the lessor or landlord on good security, subject to the decree of the court; and in case such bill or bills shall be filed within the time aforesaid, and after the execution is executed, the lessor or lessors of the plaintiff shall be accountable only for so much and no more as he, she or they shall really and *bona fide*, without fraud, deceit or wilful neglect, make of the demised premises, from the time of his, her or their entering into the actual possession thereof; and if what shall be so made by the lessor or lessors of the plaintiff, happen to be less than the rent reserved on the said lease, then the said lessee or lessees, his, her or their assignee or assignees, before he, she or they shall be restored to the possession or possessions shall pay such lessor or lessors, or landlord or landlords what the money so by them made fell short of the reserved rent for the time such lessor or lessors of the plaintiff, or landlord or landlords held the said lands. *Provided always, and*

XXV. *Be it further enacted by the authority aforesaid*, That if the tenant or tenants, his, her, or their assignee or assignees shall, at any time before the trial in such ejectment pay or tender to the lessor or landlord, his executors or administrators, or his, her, or their attorney in that cause, or pay into the court where the same cause is depending, all the rent and arrears, together with the costs, then and in such case all further proceedings on the said ejectment shall cease and be discontinued; and if such lessee or lessees, his, her, or their executors, administrators, or assigns shall, upon such bill filed as aforesaid, be relieved in equity, he, she, or they shall have, hold and enjoy the demised lands according to the lease thereof made, without any new lease to be thereof made to him, her or them. *And*, for making the renewal of leases more easy for the future,

XXVI. *Be it further enacted by the authority aforesaid*, That in case any lease shall be duly-surrendered in order to be renewed, and a new lease made and executed by the chief landlord or landlords, the same new lease shall without a surrender of all or any the under leases be as good and valid to all intents and purposes, as if all the under leases derived thereout had been likewise surrendered at or before the taking of such new

new lease; and all and every person or persons in whom any estate for life or lives, or for years, shall from time to time be vested by virtue of such new lease, and his, her, and their executors and administrators shall be entitled to the rents, covenants and duties, and have like remedy for recovery thereof; and the under lessees shall hold and enjoy the demised premises respectively, as if the original leases, out of which the respective under leases are derived, had been still kept on foot and continued; and the chief landlord or landlords shall have and be entitled to such and the same remedy by distress or entry in and upon the demised premises for the rents and duties reserved by such new lease, so far as the same exceed not the rents and duties reserved in the lease out of which such under lease was derived, as he, she or they would have had in case such former lease had been still continued; or as he, she or they would have had in case the respective under leases had been renewed under such new principal lease; any law, custom, or usage to the contrary hereof notwithstanding.

XXVII. *And be it further enacted by the authority aforesaid,* That where any tenant for life shall happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments which determined on the death of such tenant for life, that the executors or administrators of such tenant for life, shall and may, in an action on the case recover of and from such under tenant or under tenants of such lands, tenements or hereditaments, if such tenant for life die on the day on which the same was made payable, the whole, or if before such day, then a proportion of such rent, according to the time such tenant for life lived of the last year, or quarter of a year, or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof, respectively.

Where tenants for life dying, their executors to have action to recover from the under tenant the whole or part of the rent due.

11. Geo 2 c. 19

And whereas the possession of estates in lands, tenements, and hereditaments is rendered very precarious by the frequent and fraudulent practice of tenants in attorning to strangers who claim title to the estates of their respective landlord or landlords, lessor or lessors, who by that means are turned out of possession of their respective estates, and put to the difficulty and expence of recovering the possession thereof, by actions or suits at law: *For remedy whereof,*

Recital:

XXVIII. *Be it further enacted by the authority aforesaid,* That all and every such attornment or attornments of any tenant or tenants of any messuages, lands, tenements or hereditaments, shall be absolutely null and void to all intents and purposes whatsoever, and the possession of their respective landlord or landlords, lessor or lessors shall not be deemed or construed to be in any wise changed, altered or affected by any such attornment or attornments: *Provided always,* that nothing herein contained, shall extend to vacate or affect any attornment made pursuant to and in consequence of some judgment at law, or decree, or order of a court of equity, or made with the privity and consent of the landlord or landlords, lessor or lessors, or to any mortgagee after the mortgage is become forfeited.

Where attornments of tenants to strangers, to be void.

It. It.

Attornments, pursuant to judgments at law, not affected.

XXIX. *And be it further enacted by the authority aforesaid,* That every tenant to whom any declaration in ejectment shall be delivered, for any lands, tenements or hereditaments, shall forthwith give notice thereof to his or her landlord or landlords, or his, her or their bailif or receiver, under penalty of forfeiting the value of three years improved or rack rent, of the premises so demised, or holden in the possession of such tenant, to the person of whom he or she holds, to be recovered by action of debt, to be brought in any Court of Record within this State.

Tenants to notify their landlords, &c. of ejectments delivered, on penalty of 3 years rack rent.

It. It.

XXX. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the court where such ejectment shall be brought, to suffer the landlord or landlords to make him, her or themselves defendant or defendants, by joining with the tenant or tenants to whom such declaration in ejectment shall be delivered, in case he or they shall appear; but in case such tenant or tenants shall refuse or neglect to appear judgment shall be signed against the casual ejector for want of such appearance: but if the landlord or landlords of any part of the lands, tenements or hereditaments, for which such ejectment was brought, shall desire to appear by himself, herself or themselves, and consent to enter into the like rule, that by the course of the court the tenant in possession

Where landlords may be defendants by joining with their tenants.

Judgment against casual ejector for non appearance.

It. It.

Where execution
against casual ejector
shall be stayed.

possession, in case he or she had appeared, ought to have done; then the court, where such ejectment shall be brought, shall and may permit such landlord or landlords so to do, and order a stay of execution upon such judgment against the casual ejector until they shall make further order therein.

And to obviate some difficulties that many times occur in the recovery of rents where the demises are not by deed.

Demises not by
deed, landlords to
recover reasonable
satisfaction for their
lands, &c. by action.

Parole demise, re-
serving rent, appear-
ing, shall be evi-
dence.

11 Geo. 2 c. 19

XXXI. *Be it further enacted by the authority aforesaid,* That it shall be lawful to and for the landlord or landlords, his, her or their heirs or assigns, where the agreement is not by deed to recover a reasonable satisfaction for the lands, tenements or hereditaments held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held and enjoyed; and if in evidence on the trial of such action any parole demise, or any agreement (not being by deed) whereon a certain rent was reserved shall appear, the plaintiff in such action shall not therefore be non suited, but may make use thereof as an evidence of the quantum of the damages to be recovered.

C H A P. XXXVII.

An ACT for punishing Treasons and Felonies, and for the better regulating the proceedings in cases of Felony. Passed the 21st of February, 1788.

A certain phrase
abolished.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the privilege or benefit of the clergy heretofore allowed in criminal cases shall be and hereby is taken away and for ever abolished.

Crimes punished
with death.

II. *And be it further enacted by the authority aforesaid,* That every person who hereafter shall be in due form of law convicted or attainted of any manner of treason, murder, rape, buggery, or burglary; or of feloniously taking any goods or chattels out of any church or place of public worship; or of feloniously breaking any house by day or by night, any person being then in the same house where such breaking shall be committed and thereby put in fear or dread; or of robbing any person or persons in his, her or their dwelling house or dwelling place, the owner or dweller in the same house or his wife, or his or her children or servants or any or either of them then being within the same house or place where the robbery shall be committed and done, or any other place within the precinct of the same house or dwelling place, whether the owner or dweller in the same house, or his wife, or his or her children or servants or any or either of them then and there being shall be waking or sleeping; or of robbing any person, or of feloniously taking away any goods or chattels being in any dwelling house, the owner or any other person being therein and put in fear; or of robbing any dwelling house, in the day time, any person being therein, or of robbing any person or persons in or about any highway; or of wilfully burning any dwelling house or any barn; or of any offence specified in the act entitled an act to prevent malicious maiming and wounding; or of any offence specified in the act entitled an act for preventing and punishing forgery and counterfeiting; and every person who shall aid, abet, assist, counsel, hire or command, any person or persons to commit any of the said offences, and thereof be duly convicted or attainted, shall suffer death for the same, and shall be hanged by the neck until he, she, or they shall be dead: *And further,* that the judgments to be given in all and every of the cases aforesaid, shall invariably be, that the person so convicted or attainted, shall be hanged by the neck until he or she shall be dead; any law, usage or custom to the contrary notwithstanding. *And moreover,* that all and every person and persons who shall in due form of law be convicted or attainted of any felony, other than such as are herein before mentioned, shall, for the first offence, be punished by fine, imprisonment or corporal punishment, or by all or any of them

The form of the
judgments to be given.

Other felonies how
punished, for the
first offence,

them, in such manner as the Justices before whom such conviction or attainder shall be had, or who shall give judgment thereupon, shall in their discretion think proper to direct and award, not extending to life or limb; and for any second offence or felony committed, after such first conviction, every such offender shall suffer death, and shall have judgment to be hanged by the neck until he or she shall be dead; and shall be accordingly hanged by the neck until he or she shall be dead; but nothing herein before contained shall extend to petty larceny, which is the feloniously taking and carrying away the goods or chattels of another of the value of five pounds or under.

How for the second offence.

III. *And be it further enacted by the authority aforesaid,* That the law relative to the *piene fort et dure* shall be and hereby is abolished; and that in all cases of treason or felony where the party indicted shall on being arraigned obstinately stand mute, or refuse to plead and be tried in due course of law, such obstinately standing mute, or refusal to plead and be tried as aforesaid, shall be adjudged to amount to and be a proper traverse or denial of the facts charged in the indictment; and the trial shall thereupon proceed in like manner, and the record shall be in the same form, and the same judgment shall be given against the said party, if found guilty, as if he or she had on being arraigned pleaded not guilty, and for trial had put himself or herself on the country; any law to the contrary notwithstanding.

A certain law abolished.

Persons indicted for treason, or felons standing mute or refusing to plead, &c.

IV. *And be it further enacted by the authority aforesaid,* That the clerk of the Supreme Court, the clerks of every Circuit Court, and Court of Oyer and Terminer and gaol Delivery, and the clerks of the Peace for the time being, where any attainder outlawry or conviction, of any person or persons, for any manner of treason, murder, rape, buggery, burglary, robbery or other felony shall be had, shall, without fee or reward, certify into the Court of Exchequer, at the next term, there to remain of record for ever, a transcript briefly and in few words containing the tenor and effect of every such attainder, outlawry, or conviction, and of the indictment or appeal upon which the same shall be so had; that is to say, the name, surname and addition of every such person so convicted, outlawed, or attainted, and the certainty of the said felony or other offence whereupon he or she shall be so convicted, outlawed or attainted, and the day and place of the conviction, outlawry or attainder, and before whom the same was had, and the day and place where and when the said felony or other offence was done, and the judgment thereupon given, upon pain to forfeit for every omission or neglect, the sum of *ten pounds*, to the People of this State; and the clerk of the Court of Exchequer shall receive all such certificates and transcripts when the same shall be presented and offered to him by any of the respective clerks aforesaid, or by his or their deputy or deputies, without taking any thing for the same; and shall at all times, without fee or reward, when requested by the Attorney-General of this State, or by any prosecutor against any person named in any such certificate or transcript for any second offence, make and deliver to the Attorney General or prosecutor a true copy of such certificate or transcript certified under his hand and the exchequer seal; and every such copy so certified shall be good evidence of such former conviction, outlawry or attainder.

How clerks of other courts are to certify certain matters into the exchequer.

Clerk of exchequer duty thereon.

V. *And be it further enacted by the authority aforesaid,* That if any person or persons shall be indicted of felony, for stealing of any goods or chattels in any county of this State, and thereof be convicted or attainted; if it shall appear upon evidence and be found by the jury, that the said goods or chattels were taken by robbery or burglary, or in any other manner, in any other county, whereof if such person or persons had been convicted by a jury of such other county, he, she, or they would, by virtue of this or any other act now in force or hereafter to be made, be liable to suffer death, then and in every such case, judgment shall be given that the said offender or offenders shall be hanged by the neck, until he, she or they shall be dead, and such offender and offenders shall be put to death accordingly.

Certain felonies in one county may be punished in another.

VI. *And be it further enacted by the authority aforesaid,* That every person who shall in due form of law be convicted or attainted of any manner of treason, murder, rape, buggery, burglary, robbery, or other felony, for which he or she ought, or is or shall be, by any law of this State now in force, or hereafter to be made, liable to suffer death, shall forfeit to the People of this State, all his or her goods and chattels, and also all such lands, tenements, and hereditaments, which any such offender shall have

Felons, liable to death, to forfeit lands, goods, &c.

have of any estate of inheritance, in his or her own right, in use or possession, and all rights, entries, conditions, reversions and remainders of, in, or to any lands, tenements or hereditaments, at the time of any such offence committed, or at any time after; and the People of this State without any office or inquisition to be found, shall be deemed and adjudged in the actual and real possession of the lands, tenements, hereditaments, uses, goods, chattels, and all other things of the offenders, so convicted or attainted, which the People of this State ought lawfully to have, and which the offenders so being convicted or attainted ought to lose and forfeit, or might lawfully lose and forfeit; saving to every person and persons, and to his, her and their heirs and successors, other than the offenders and their heirs, and such person and persons as claim to the use of any such offender or offenders, all such rights, titles, interest, possessions, leases, rents, reversions, offices, and other profits which they or any of them shall have at the day of committing any such offence, or at any time after, in as large and ample manner, as if this clause of this act had not been made.

Saving the rights of claimants.

Attainders not to corrupt the blood.

Process on felonious striking or poisoning in one county and the patient dying in another.

VII. *And be it further enacted by the authority aforesaid,* That no attainder of any person or persons, of or for any manner of treason or felony whatsoever, shall hereafter extend to corrupt the blood of the offender, or to forfeit the dowry of his wife.

VIII. *And be it further enacted by the authority aforesaid,* That where any person hereafter shall be feloniously stricken or poisoned in one county, and die of the same stroke or poisoning in another county; then an indictment thereof found by jurors of the county where the death shall happen, whether it shall be found before the Coroner upon the sight of such dead body, or before the Justices of the Peace, or other Justices or Commissioners, who shall have authority to enquire of such offences, shall be as good and effectual in the law, as if the stroke or poisoning had been given, committed and done in the same county where the party shall die, or where such indictment shall be so found: *And further,* that the Justices of Gaol Delivery, and Justices authorized or assigned to hear and determine in the same county where such indictment at any time hereafter shall be taken, and the Justices of the Supreme Court, when such indictment shall be taken or removed before them, shall and may proceed upon the same in all points, as they should or ought to do in case such felonious stroke and death thereby ensuing, or poisoning and death thereof ensuing, had grown all in one and the same county.

Appeal of murder where to be taken.

And moreover, that such party to whom appeal of murder is or shall be given by the law, may commence take and sue appeal of murder in the same county where the party feloniously stricken or poisoned, shall die, as well against the principal and principals, as against every accessory to the same offences, in whatsoever county or place the accessory or accessories shall be guilty to the same; and the Justice before whom any such appeal shall be commenced, sued and taken, within the year and day after such murder and manslaughter committed and done, shall proceed against all and every such principal and principals, accessory and accessories, in the same county where such appeal shall be so taken, in like manner and form as if the same offence or offences had been committed and done in the same county where such appeal shall be so taken; as well concerning the trial by the jurors of the county where such appeal or appeals shall be taken upon the plea of not guilty pleaded by such offender or offenders, as otherwise.

The process on murder, &c. done in one county and the accessories in another.

And further, that where any murder or felony shall be committed and done in one county, and another person or more persons shall be accessory or accessories in any manner of wise to any such murder or felony in any other county, then an indictment found and taken against such accessory and accessories upon the circumstance of such matter before the Justices of the Peace, or other Justices or Commissioners having authority to inquire of felonies in the county where such offences of accessory or accessories in any manner of wise, shall be committed or done, shall be as good and effectual in the law, as if the said principal offence had been committed or done within the same county where the same indictment against such accessory shall be found; and the Justices of Gaol Delivery, or Justices authorized or assigned to hear and determine, or any two of them, of or in such county where the offence of any such accessory shall be committed and done, upon suit to them made shall write to the clerk or keeper of the records where such principal shall be attainted or convicted, to certify them whether such

such principal be attainted convicted, or otherwise discharged of such principal felony; who, upon such writing to them or any of them directed, shall make sufficient certificate in writing, under his or their seal or seals to the said Justices, whether such principal be attainted, convicted or otherwise discharged, or not; and after that they that so shall have the custody of such records do certify that such principal is attainted, convicted or otherwise discharged of such offence by the law, then the Justices of Gaol Delivery, or Justices authorised or assigned to hear and determine such offences, or other Justices thereunto authorised shall proceed upon every such accessory in the county where such accessory or accessories became accessory, in such manner and form, as if both the principal offence and accessory had been committed and done in the said county where the offence of accessory was or shall be committed or done; and that every such accessory and other offenders above expressed, shall answer upon their arraignments, and receive such trial, judgment, order, and execution, and such forfeitures, pains and penalties, as is used in other cases of felony.

IX. *And be it further enacted by the authority aforesaid,* That if any person or persons shall steal or take by robbery any bill of exchange, bond, order, warrant, bill or promissory note, for payment of any money or any certificate, or other public security issued or to be issued by the authority of the United States in Congress assembled, or by authority of the Legislature of this State, for payment of money, or acknowledging the receipt of money or goods being the property of any other person or persons, or of any corporation, notwithstanding any of the said particulars are or may be termed in law a chose in action, it shall be deemed and construed to be felony of the same nature, and in the same degree, and in the same manner as it would have been if the offenders had stolen or taken by robbery any other goods of like value, with the money due on such bill, bond, order, warrant, or note, or certificate, or other public security, or secured thereby and remaining unsatisfied; and such offender shall suffer such punishment as he or she should or ought to have done, if he or she had stolen other goods of the like value with the money due on such bill, bond, order, warrant, or note, or certificate, or public security, respectively, or secured thereby and remaining unsatisfied.

Stealing or robbing bills, bonds, notes, certificates, &c. to be felony.

X. *And be it further enacted by the authority aforesaid,* That if any person shall buy or receive any goods or chattels of any value whatsoever, that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, he or she shall be taken and deemed an accessory to such felony after the fact, and shall incur the same punishment as an accessory to the felony after the felony committed. *And further* that it shall and may be lawful to prosecute and punish every such person buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted; any law to the contrary notwithstanding.

Buyers and receivers of stolen goods accessories thereto, how punished.

XI. *And be it further enacted by the authority aforesaid,* That if any principal felon shall be convicted of any felony, it shall and may be lawful to proceed against any accessory either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding any such principal felon shall be pardoned or otherwise delivered before attainder; and every such accessory shall suffer the same punishment if he or she be convicted, as he or she should have suffered, if the principal had been attainted.

Principal felons convicted, how accessories may be proceeded against.

XII. *And be it further enacted by the authority aforesaid,* That the Justices of the Supreme Court shall have full power and authority by their discretion to remand and send down as well the bodies of all felons and murderers brought or removed, or that shall be removed or brought before the People of the State of New-York in their Supreme Court, as the indictments against such felons and murderers into the said counties where the same murders and felonies were or shall have been committed and done; and to command all Justices of Gaol Delivery, Justices of the Peace, and all other

Justices of the Supreme Court may send felons & murderers, &c. into the counties for trial there.

Justices

Justices and Commissioners having authority to hear and determine the same felonies, and every of them, to proceed and determine upon all the aforesaid bodies and indictments so removed according to law, in such manner as the same Justices of Gaol Delivery, Justices of the Peace, or Commissioners, or any of them might or should have done, if the said prisoners or indictments had never been brought into the said Supreme Court.

Writs of Habeas corpus or certiorari how to be granted.

XIII. *And be it further enacted by the authority aforesaid,* That no writs of *habeas corpus* or *certiorari*, shall be hereafter granted to remove any prisoner out of any gaol, or to remove any indictment, inquisition, recognizance, record or other thing, except the same writs be signed with the proper hand of one of the Justices of the court out of which the same writs shall be awarded; and every such writ not signed as aforesaid, shall be void and of none effect.

Certain foreign pleas how tried.

IV. *And be it further enacted by the authority aforesaid,* That all manner of foreign pleas triable by the country hereafter to be pleaded by any person or persons arraigned upon any indictment or appeal for any treason, murder or felony, shall be forthwith tried before the same Justices before whom such person or persons shall be arraigned, and by the same jurors of the same county that shall try the treason, murder or felony whereof he, she or they shall be so arraigned, without any further respite or delay, in whatsoever county or counties, place or places the matter of the same pleas be supposed or alledged.

Challenge allowed and limited.

XV. *And be it further enacted by the authority aforesaid,* That no person arraigned for any murder or felony shall be admitted to any peremptory challenge above the number of twenty; and if any person arraigned for any murder or felony shall peremptorily challenge above the number of twenty of the jurors returned for the trial of such person, such challenge shall be disallowed, and the trial shall proceed as if no such challenge had been made.

Where indictors shall not be on the inquest.

XVI. *And be it further enacted by the authority aforesaid,* That no indictor of any person or persons for any crime or offence whatsoever, shall be put upon the inquest for the trial of such person or persons, if he be challenged for the same cause by him, her or them so indicted.

Witnesses allowed to telons, and compellable to appear.

XVII. *And be it further enacted by the authority aforesaid,* That every person who shall be arraigned or tried of or for any felony shall be admitted to make any proof that he or she can produce, by lawful witness or witnesses, who shall then be upon oath, for his or her just defence in that behalf, and shall have the like process of the court where he or she shall be tried, to compel his or her witnesses to appear for him or her, at such trial as is usually granted to compel witnesses to appear against him or her.

"With force and arms," to be left out of future inquisitions, &c.

XVIII. *And be it further enacted by the authority aforesaid,* That from henceforth the words "with force and arms" or any such like words, shall not of necessity be put or comprised in any inquisition or indictment of treason, murder, felony, trespass, or any other offence, and that no party or parties being hereafter indicted of any offence, shall have or take any advantage, by writ or writs of error, plea or otherwise, to annul or avoid any such inquisition or indictment, for that the words "with force and arms," or any such like words shall not be put or comprised in the said inquisitions or indictments; but that the same inquisitions and indictments, and every of them, lacking the said words "with force and arms" or any such like words, shall from henceforth be taken, deemed and adjudged to all intents, constructions and purposes, as good and effectual in the law, as the same inquisitions and indictments having the said words "with force and arms" comprised and put in every of the same inquisitions and indictments, were or heretofore have been taken, deemed or adjudged.

Parties robbed when to be restored to their money, goods, &c.

XIX. *And be it further enacted by the authority aforesaid,* That if any felon or felons do rob or take away any money, goods or chattels, from any person or persons, from the person or otherwise, and the said felon or felons be thereof indicted, and after arraigned of the same felony and found guilty thereof, or otherwise attainted, by reason of evidence given by the party so robbed, or owner of the said money, goods or chattels, or by any other, by his, her or their procurement, then the party so robbed,

or

or owner shall be restored to his or her said money goods and chattels; and that as well Justices of Gaol Delivery as other Justices before whom any such felon or felons shall be found guilty, or otherwise attainted, by reason of evidence given by the party so robbed, or owner, or by any other, by his or her procurement, shall have power by this act to award from time to time, writs of restitution for the said money, goods and chattels, in like manner as if such felon or felons were attainted at the suit of the party in appeal.

By writs of restitution.

And whereas, the honest and faithful citizens of this State are often charged and burdened in conveying felons and other malefactors and offenders against the laws unto the gaol, when the same offenders have goods and chattels of their own whereby to defray the same charge themselves, which tends to the encouragement of such offenders, and to the discouragement of the said honest and faithful citizens in prosecuting the said felons, malefactors and offenders.

Preamble, Respecting persons conveying felons to gaol.

XX. *Therefore be it further enacted by the authority aforesaid*, That all and every person and persons whomsoever, who shall be committed to the common or usual gaol, in any city or county of this State, by any Justice or Justices of the Peace, for any felony, offence or misdemeanor, having means or ability thereunto, shall bear their own reasonable charges for so conveying or sending them to the said gaol, and the charges also of such as shall be appointed to guard them to the said gaol, and shall guard them thither; and if any such person so to be committed as aforesaid, shall refuse, at the time of his or her commitment and sending to the said gaol to defray the said charges, or shall not then pay or bear the same, then any Justice or Justices of the Peace of the county shall and may, by writing under his or their hand and seal, or hands and seals, after conviction of the person so committed, give warrant to the constable or constables, or either of them, of the town or place where such persons so committed shall dwell or inhabit, or where he or she shall have any goods within the same city or county, to levy by distress and sale of the goods and chattels of the said person so to be committed, so much money as by the discretion of the said Justice or Justices, shall satisfy and pay the charges of his or her conveying and sending to gaol: and when any person, not having goods or money within the city or county where he or she shall be taken, sufficient to bear the charges of himself or herself and of those who convey him or her, is committed to gaol, by warrant from any Justice or Justices of the peace, then on application by any constable or other officer who conveyed him or her to gaol as aforesaid, to any Justice of the Peace for the same city or county, the Justice shall, upon oath, examine into and ascertain the reasonable allowances to be made to such constable or other officer, both for his expences and trouble, the said allowance for trouble not to exceed six pence for each mile that he shall travel to convey the said offender to gaol as aforesaid, and the said Justice shall forthwith, without fee or reward, by warrant under his hand and seal, order the Treasurer of the city or county to pay the same, which the said Treasurer is hereby required to do as soon as he receives such warrant and shall have monies in his hands: *And whereas* many persons are deterred from prosecuting persons guilty of felony, upon account of the expence attending such prosecutions, which is a great cause and encouragement of felonies; in order therefore to encourage the bringing offenders to justice.

Where such felons shall bear the charges thereof.

Where the charges are to be paid by the city or county.

Preamble.

XXI. *Be it further enacted by the authority aforesaid*, That it shall and may be in the power of the court before whom any person shall have been tried and convicted of any larceny or other felony, at the prayer of the prosecutor and on consideration of his circumstances, in open court to order the Treasurer of the city or county in which the offence shall have been committed, to pay unto such prosecutor, such sum of money as to the same court shall seem reasonable, not exceeding the expences which it shall appear to the court, the prosecutor was put unto in carrying on such prosecution and making him a reasonable allowance for his time and trouble therein, which order the clerk of such court is hereby directed and required forthwith, to make out and deliver to such prosecutor, upon being paid for the same, the sum of one shilling and no more; and the Treasurer of such city or county is hereby authorized and required upon sight of such order, or as soon after as he shall have monies sufficient in his hands forthwith

Where the prosecutors of felons are allowed their expences.

To be paid by the city or county Treasurers.

Preamble.

Certain witnesses appearing on recognizance to be paid for trouble and expence by the city or county Treasurers.

To be allowed in their accounts.

forthwith to pay such prosecutor or other person authorized to receive the same, such sum of money so ordered to be paid as aforesaid.

And whereas the expence as well as loss of time in attending Courts of Justice is a discouragement to the poorer sort to appear as witnesses against offenders, who thereby escape the public justice, and the punishment due to their crimes. Therefore,

XXII. Be it further enacted by the authority aforesaid, That when any poor person shall appear on recognizance, in any court to give evidence against another accused of any larceny or other felony, it shall and may be in the power of the court, at the prayer and on the oath of such person and on consideration of his or her circumstances in open court, to order the treasurer of the city or county in which the offence shall have been committed to pay unto such person such sum of money as to the said court shall seem reasonable, for his or her time, trouble, and expence; which order the clerk of such court is hereby directed and required forthwith to make out and deliver to such person, without fee or reward, and such treasurer is herereby authorized and required, upon sight of such order, or as soon after as he shall have monies sufficient in his hands forthwith to pay to such person or other person authorized to receive the same, such sum of money so ordered to be paid, as aforesaid.

XXIII. And be it further enacted by the authority aforesaid, That the Treasurer of each city and county, shall be allowed in his accounts all such sums as he shall pay upon any such warrant or order as aforesaid, which sums shall be considered and deemed as part of the contingent charge of such city or county; and that the several treasurers may be enabled to comply with such warrants and orders, the supervisors of the several counties are hereby required to cause a sum sufficient, for the purposes aforesaid, to be raised, levied and collected in their respective counties, yearly, in the same manner as the contingent charges of the same county are to be raised, levied, and collected.

C H A P. XXXVIII.

An ACT concerning Courts of Oyer and Terminer, and Gaol Delivery. Passed the 22d of February, 1788.

Courts of Oyer & Terminer of whom to consist, in the several cities & counties.

Their duty.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Justices of the Supreme Court for the time being, or any or either of them, together with the Mayor, Recorder, and Aldermen of the city of New-York, for the time being, or any three or more of them, of whom either of the Justices of the Supreme Court shall always be one, in and for the city and county of New-York, and together with the Mayor, Recorder and Aldermen of the city of Albany for the time being, and the Judges and Assistant Justices of the Court of Common Pleas of the county of Albany for the time being, or any three or more of them, of whom either of the Justices of the Supreme Court shall always be one, in and for the city and county of Albany, and together with the Judges and Assistant Justices of the respective Courts of Common Pleas of each and every of the other counties of this State for the time being, or any three or more of them, of whom either of the Justices of the Supreme Court shall always be one, in and for each of the same counties, respectively, shall be and hereby are authorized and empowered, by virtue of their respective offices, and this act, without any other commission, from time to time for ever hereafter, at such times and places in each of the said cities and counties respectively, as the same Justices of the Supreme Court, or any or either of them shall hold the Circuit Court in the same cities or counties respectively, to enquire by the oath of good and lawful men of the same cities and counties respectively, and by other ways, methods and means, by whom and by which the truth of the matter may be the better known, of whatsoever treasons, misprison of treasons, insurrections, rebellions, murders, felonies, homicides,

homicides, killings, burglaries, rapes of women, counterfeitings, unlawful congregations and assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, extortions, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champerties, conspiracies, deceits, and other misdoings, offences and injuries whatsoever, and also of the accessaries to them, in the same cities and counties respectively, by whomsoever and howsoever had, done, perpetrated or committed or at any time hereafter, to be had, done, perpetrated or committed, and by whom, to whom, when, where and how, and in what manner; and of all other articles and circumstances concerning the premises and every of them, or any one or more of them, in any manner whatsoever; and the said treasons and other the premises to hear and determine according to the law of this State, doing therein that which to justice doth or shall appertain; and also to deliver the gaols in the same cities and counties respectively, of the prisoners therein then being, doing therein what to justice doth or shall appertain, according to the law of this State: *And further*, that each and every of the said courts shall be held and continued in each and every of the said cities and counties for so long time at each session as may be necessary to dispatch the business in the same city or county, whether the Circuit Court for trial of issues in the same city or county be then so long continued or not.

II. *And be it further enacted by the authority aforesaid*, That the Sheriff of the city and county of New-York for the time being, and the respective Sheriffs of each and every of the other counties in this State for the time being, shall cause to come before the Justices of the Supreme Court for the time being, and such other persons as are by this act authorized and impowered to enquire, hear and determine as aforesaid, and to deliver the gaols in the several cities and counties of this State respectively, as aforesaid, or any three or more of them, of whom either of the Justices of the Supreme Court shall always be one, at every Circuit Court to be held in the same cities and counties respectively, twenty four good and lawful men of the same cities and counties respectively, to enquire for the People of the State of New-York, and the bodies of the same cities and counties, respectively, and to do and receive all those things which on the behalf of the People of the State of New-York, shall be then and there enjoined them; and also all the prisoners then being in the said gaols, respectively, together with their attachments, indictments and all other minuments any ways concerning those prisoners; and likewise so many good and lawful men of the same cities and counties, respectively, duly qualified to serve as jurors in the same cities and counties, as the same Justices of the Supreme Court, and other persons, hereby are authorized and empowered to enquire, hear and determine as aforesaid, and to deliver the same gaols as aforesaid, or any three or more of them, of whom either of the Justices of the Supreme Court always to be one, shall from time to time direct, by whom the truth of the matter may be the better known and inquired into, and who have no affinity to those prisoners. And the said respective Sheriffs shall cause to be publicly proclaimed throughout their respective bailiwicks and counties, that all those who will prosecute against those prisoners be then and there to prosecute against them as shall be just; and shall also give notice to all Justices of the Peace, Coroners, Bailiffs and Constables within their respective bailiwicks and counties, that they be then and there in their own persons, with their rolls, records, indictments, and other remembrances to do those things which to their offices in that behalf shall appertain to be done; and the said respective Sheriffs and their respective Under Sheriffs, together with their respective Bailiffs and other officers shall then and there attend in their own proper persons to do those things which to their offices do or shall appertain in that behalf to be done. *And further*, that the clerk of the Supreme Court for the time being shall from time to time as soon as conveniently may be after any and every Circuit Court shall be appointed to be held in the respective cities and counties of this State, and at least fifteen days before the time of holding the said courts, respectively, in the said respective cities and counties, issue precepts under the seal of the same Supreme Court, directed to the respective Sheriffs of the same cities and counties, respectively, for the purposes aforesaid, mentioning the day and place when and where the same courts are to be held, and commanding the

Sheriff's duty as to the appointment of Juries.

Duty of the Grand Jury,---

of the Petit Jury.

Duty of Sheriffs to notify prosecutors and Justices.

Sheriffs, &c. to attend the court, &c.

Duty of clerk of the Supreme Court, on the appointment of Circuit Courts.

Proviso,
respecting the test-
ing of writs.

Courts of Oyer
& Terminer where
only to be held.

Commissions of
Oyer and Terminer
how to be granted.

The extent of the
writs of Justices of
Oyer and Termini-
ner.

When new Com-
missioners, &c. shall
not cause a discon-
tinuance of process,
&c.

Felons reprieved
without judgment
given against them
by Justices before
whom they were
tried, &c. to have
judgment given a-
gainst them by o-
ther Justices before
whom they were not
tried, &c.

same Sheriffs respectively to do what is hereby required of them, and that the said precepts shall always be in the name of the People of the State of New-York, and be tested in the name of the Chief Justice of the same Supreme Court: *Provided*, that in case the office of Chief Justice shall be vacant, the precepts shall be tested in the name of the next senior Justice of the said Supreme Court.

III. *And be it further enacted by the authority aforesaid*, That nothing in this act shall extend to authorise the Mayor, Recorder and Aldermen of the city of New-York, or any or either of them, to sit or act as Justices of the said Courts of Oyer and Terminer and Gaol Delivery or either of them in any place out of the city of New-York; nor to authorise the Mayor, Recorder and Aldermen of the city of Albany, or any or either of them, or the Judges and Assistant Justices of the Court of Common Pleas of the county of Albany, or any or either of them, to sit or act as Justices of the said courts of Oyer and Terminer and Gaol Delivery, or either of them, in any place out of the said county of Albany; nor to authorise the Judges and Assistant Justices of the Courts of Common Pleas of any of the other counties of this State, or any or either of them to sit or act as Justices of the said Courts of Oyer and Terminer and Gaol delivery or either of them, in any place out of their respective counties.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the person administering the government of this State for the time being, by and with the advice and consent of the Council of Appointment for the time being, to grant and issue commissions of Oyer and Terminer, and Gaol Delivery, or either of them, in the manner and form heretofore used, at any time or times hereafter, when and as often as occasion shall require: But the Justices of the Supreme Court for the time being shall always be named in such commissions as the Justices or Commissioners, with such others as the person administering the government of this State, by and with the advice and consent of the Council of Appointment may think proper to execute the same; and no such commission shall at any time be executed, nor any proceedings thereupon had, without the presence of one or more of the Justices of the Supreme Court.

V. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Justices hereby authorised and empowered to enquire, hear and determine felonies as aforesaid, and for all other Justices who shall be duly assigned to hear and determine any such felonies to direct their writs into all the cities and counties of this State where need shall be to arrest and take such persons as shall be indicted or appealed before them, or any of them.

VI. *And be it further enacted by the authority aforesaid*, That no manner of process, or suit, made, sued or had, or hereafter to be made, sued or had before any Justice of Assize, Justices of Gaol Delivery, Oyer and Terminer, or other Commissioners of the People of this State, shall in any wise be discontinued by the making and publishing of any new commission or association, or by altering the names of the Justices of Assize, Gaol Delivery, and Oyer and Terminer, or other Commissioners, but that the new Justices of Assize, Gaol Delivery, Oyer and Terminer, and other Commissioners, shall and may proceed in every behalf as the old Justices and Commissioners might have done, if their commissions and authority had still remained and continued not altered.

VII. *And be it further enacted by the authority aforesaid*, That in all cases where any person or persons heretofore have been, or hereafter shall be found guilty of any manner of treason, murder, rape or other felony whatsoever, for which judgment of death should or may ensue, and shall be reprieved without judgment at that time given against him, her or them so found guilty, that those persons who at any time hereafter shall by virtue of this act deliver the gaol where any such person or persons so found guilty shall remain, or those persons who shall at any time hereafter by commission be assigned Justices to deliver the same gaol, shall have full power and authority to give judgment of death against such person and persons so found guilty and reprieved, as the same Justices before whom such person or persons was or were found guilty might have done if their commission or authority had remained and continued in full force and strength.

VIII. *And*

VIII. *And be it further enacted by the authority aforesaid,* That the Justices of Assize, Gaol Delivery, and Oyer and Terminer shall once in every year, send all their record, and process determined and put in execution to the exchequer, there to remain of record. What records, &c shall be sent yearly to the exchequer.

IX. *And be it further enacted by the authority aforesaid,* That no person little or great shall sit upon the bench with the Justices to take assizes, or with the Justices of Oyer and Terminer and Gaol Delivery in their session, upon pain of fine and imprisonment: And the said Justices are hereby charged that they do not suffer any person to sit with them on the bench in their session, contrary to the intent of this act. No person suffered to sit with certain Justices on the bench.

X. *And be it further enacted by the authority aforesaid,* That the said Courts of General Gaol Delivery, in the several cities and counties shall have power to deliver the gaols of those prisoners who shall be indicted before the Justices of the Peace in the same cities and counties, respectively. Courts to deliver gaols of prisoners indicted before justices.

C H A P. XXXIX.

An ACT to continue the Acts for the appointment of an Auditor, and the settlement of the Public Accounts of this State. Passed the 22d of February 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the act entitled "an act further to continue and amend an act, entitled an act for the appointment of an Auditor and the settlement of the public accounts of this State" shall be, and hereby is continued in full force and virtue to all intents and purposes, until the twenty-first day of March, which will be in the year of our Lord one thousand seven hundred and ninety. Continuance of certain acts to 21st. March, 1790.

II. *And be it further enacted by the authority aforesaid,* That the time limited for the payment of quit rents and commutation for annual quit rents, in and by the first section of the act, entitled "an act to amend an act, entitled an act for the collection and commutation of quit rents," shall be, and hereby is extended to the first day of May, which will be in the year one thousand seven hundred and eighty nine: And further, that it shall and may be lawful for the Auditor of this State, for the time being, and he is hereby required to do and perform every act, matter and thing which the Treasurer is directed to do and perform in and by the said act, and in and by the act, entitled, "an act for the collection and commutation of quit rents," The payment of quit rents, &c. commutation extended to the 1st. of May, 1789. Auditors duty.

C H A P. XL.

An ACT concerning Slaves. Passed the 22d of February, 1788.

WHEREAS in consequence of the act, directing a revision of the laws of this State, it is expedient that the several existing laws, relative to slaves, should be revised and comprised in one: Therefore, Preamble.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That every negro, mulatto, or mestee within this State, who at the time of the passing of this act, is a slave for his or her life, shall continue such for and during his or her life, unless he or she shall be manumitted or set free in the manner prescribed in and by this act, or in and by some future law of this State. The slavery of slaves continued, &c.

II. *And be it further enacted by the authority aforesaid,* That the children of every negro, mulatto, or mestee woman, being a slave, shall follow the state and condition of the mother, and be esteemed reputed taken, and adjudged slaves to, all intents and purposes whatsoever. Children of women slaves adjudged slaves.

III. *And*

Baptism, no manumission to slaves.

III. *And be it further enacted by the authority aforesaid,* That the baptizing of any negro, or other slave shall not be deemed adjudged or taken to be a manumission of such slave.

Mode to prevent the further importation of slaves into this State.

IV. *And to prevent the further importation of slaves into this State, Be it further enacted by the authority aforesaid,* That if any person shall sell, as a slave within this State, any negro or other person who has been imported or brought into this State, after the first day of June, in the year of our Lord one thousand seven hundred and eighty-five, or who shall be imported or brought into this State after the passing of this act, such seller, or his or her factor or agent making such sale, shall be deemed guilty of a public offence, and shall for every such offence forfeit the sum of one hundred pounds current money of this State, to be recovered by any person who will sue for the same, with costs of suit, by action of debt in any Court of Record within this State, having cognizance thereof; the one half of which forfeiture, when recovered, to be paid to the Treasurer of this State for the use of the people thereof; and the other half to the person who shall sue for the same to effect. And further, That every person, so imported or brought into this state, and sold contrary to the true intent and meaning of this act, shall be free.

Penalty on offenders.

How applied.

Slaves imported, shall be free.

Mode to prevent the exportation of slaves from this State.

V. *And be it further enacted by the authority aforesaid,* That if any persons shall at any time purchase or buy, or shall as factor or agent to another, take or receive any slave with intent to remove, export, or carry such slave from this State to any other place, without this State, and there to be sold; the person so purchasing or buying, or so as factor or agent receiving or taking a slave, with such intent as aforesaid, shall be deemed to have committed an offence against the People of this State, and shall for every such offence forfeit the sum of one hundred pounds, to be recovered with costs by any person who will sue for the same; the one moiety to the use of the People of this State, and the other moiety to the use of the person who will sue for the same; and the slave so purchased, bought, taken, or received, shall be immediately after he or she shall be so purchased, bought, received, or taken, and hereby is, declared to be free.

Penalty on offenders.

And such slaves to be free.

Mode to prevent persons from employing, harbouring, &c. slaves without consent of the owners.

VI. *And be it further enacted by the authority aforesaid,* That if any person or persons shall, after the passing of this act, employ, harbour, conceal or entertain any negro, or other slave, knowing such negro or other slave to be the slave of any other person or persons without the consent of the owner or owners of such slave, he, she, or they shall forfeit to the owner or owners of such slave the sum of five pounds for every twenty-four hours, and in that proportion for a greater or less time, while such slave shall have been employed, harboured, concealed or entertained as aforesaid; but that such forfeiture shall not in the whole exceed the value of such slave. And further, That if any person or persons shall be found guilty of harbouring, entertaining or concealing any slave, or of assisting to convey him or her away, and if such slave shall be lost, die, or be otherwise destroyed, the person or persons so harbouring, entertaining, concealing, assisting or conveying away such slave, shall be liable to pay to the owner or owners of such slave the value thereof; which several sums of money shall and may be recovered by action of debt, with costs of suit, in any court of record having cognizance thereof.

Penalty on trading &c. with slaves.

VII. *And be it further enacted by the authority aforesaid,* That no person or persons shall trade or traffic with any slave or slaves, either in buying or selling without leave or consent of the master or mistress of such slave or slaves, on pain of forfeiting treble the value of the thing or things traded for; and also, the sum of five pounds to the master or mistress of such slave or slaves for each offence, to be recovered with costs against the person or persons so trading contrary to the true intent and meaning of this act, by action of debt in any court, having cognizance thereof. And further, That every contract or bargain so made or to be made with any slave or slaves without consent of his, her, or their master or mistress, shall be utterly void.

Penalty on selling rum, &c. to slaves.

VII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall sell any rum or other strong liquor to any slave or slaves without the consent of his or her master or mistress, and shall thereof be convicted upon complaint made by the master or mistress of such slave or slaves before any Justice of the Peace, Mayor,

Mayor, Recorder, or Alderman in the city or county where the offender shall dwell or reside, shall forfeit and pay the sum of forty shillings for every such offence, to be recovered with costs, before any such Justice, Mayor, Recorder, or Alderman; the one half of which forfeiture, when recovered shall be paid to such master or mistress, and the other half to the overseers of the poor of the city or town where such offence is committed.

IX. *And be it further enacted by the authority aforesaid,* That if any person or persons shall by theft or other trespass, committed by any slave or slaves, sustain damages to the value of five pounds or under, the owner or owners of such slave or slaves shall be liable to make satisfaction for such damages to the party injured, to be recovered by action of debt with costs of suit, in manner aforesaid.

Trespasses of slaves to the value of 5l. or under to be paid by their owners.

X. *And be it further enacted by the authority aforesaid,* That if any slave shall strike a white person, it shall be lawful for any Justice of the Peace to commit such slave to prison; and such slave shall thereupon be tried and punished in the manner directed in cases of petit larceny, in and by the act, entitled, "an act for the speedy punishment of such persons as shall commit any offences under the degree of grand larceny."

Slaves punishable for striking white persons.

XI. *And be it further enacted by the authority aforesaid,* That all negroes and other persons whatsoever, commonly reputed and deemed slaves, shall for ever hereafter have the privilege of being tried by a jury in all capital cases, according to the course of the common law.

Slaves to be tried by juries in capital cases only

XII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, no slave shall be admitted a witness for or against any person, in any matter, cause or thing whatsoever, civil or criminal, except in criminal cases in which the evidence of one slave shall be admitted for or against another slave.

How far the evidence of slaves shall extend?

XIII. *And be it further enacted by the authority aforesaid,* That from and after the passing this act, no person or persons within this state shall knowingly and willingly suffer, or permit his, her or their slave to go about begging of others victuals, cloathing or other necessities; and if any person or persons shall be guilty of an offence against this clause of this act, he, she, or they shall for every such offence, forfeit the sum of ten pounds, to be recovered by action of debt, with costs of suit, in any Court of Record within this State, by any person or persons who will sue for the same; the one half of which forfeiture, when recovered, to be paid to the overseers of the poor of the city or town where such offence shall be committed; and the other half to the person or persons who shall sue and prosecute for the same to effect.

Penalty on persons suffering their slaves to go about begging.

XIV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall by any collusive conveyance, or fraudulent agreement, sell or dispose, or pretend to sell, or dispose of any aged or decrepid slave to any person or persons, who is, or are unable to keep and maintain such slave or slaves, such sale, or pretended sale shall be absolutely void, and the person or persons making such sale or pretended sale, shall forfeit the sum of twenty pounds for each offence; and shall moreover be deemed the owner or owners of such slave or slaves within the true intent and meaning of the next preceeding section of this act; which forfeitures shall be recovered and applied in the manner directed in and by the said section.

Old or decrepid slaves not to be sold to people unable to maintain them.

XV. *And be it further enacted by the authority aforesaid,* That when the owner or owners of any slave under fifty years of age, and of sufficient of ability to provide for himself or herself, shall be disposed to manumit such slave, he, she or they shall, previous thereto, procure a certificate, signed by the overseers of the poor, or the major part of them, of the city, town or place, and of two Justices of the Peace of the county where such person or persons shall dwell or reside; and if in the cities of New-York or Albany, then from the Mayor or Recorder, and any two of the Aldermen, certifying that such slave appears to be under fifty years of age, and of sufficient ability to provide for himself or herself, and shall cause such certificate of manumission to be registered in the Office of the Clerk of the city, town or place in which the owner or owners of such slave may reside; that then it shall be lawful for such persons or persons to manumit such slave without giving or providing any security to indemnify such

Penalty on offenders.

How owners of slaves under fifty years old disposed to manumit them, shall proceed without giving security.

Slaves under fifty years old to be manumitted by the last will and testament of their owners without any security.

Owners of other slaves previous to their manumission, to give security.

Executors to give security also, if they do not, the slaves to be free, but maintainable by them, if unable to support themselves.

city, town or place : And every slave so manumitted shall be deemed adjudged and taken to be free, and the Clerk for registering such certificate shall be entitled to two shillings, and no more.

XVI. *And be it further enacted by the authority aforesaid,* That if any person, by his or her last will and testament, shall give his or her slave freedom, such slave being at the death of the testator or testatrix under fifty years of age, and also of sufficient ability to provide for himself or herself, to be certified in manner aforesaid; such freedom given as aforesaid, shall without any security to indemnify the city, town or place be deemed taken and adjudged to be good and valid to all intents and purposes. *And further,* That if the owner or owners of any other slave shall be disposed to manumit and set at liberty such slave, and such owner or owners, or any other sufficient person, for or in behalf of such slave, shall and do at the Court of General Sessions of the Peace for the city or county where such negro or other slave shall dwell or reside, enter into a bond to the people of the State of New-York with one or more surety or sureties, to be approved by such court, in a sum not less than *two hundred pounds*, to keep and save such slave from becoming or being any charge to the city, town or place within this State wherein such slave shall, at any time after such manumission live; the said slave shall be free, according to such manumission of the owner or owners of such slave. *And further,* If any such slave hath been or hereafter shall be made free by the last will and testament of any person deceased; and if the executor or executors of such person so deceased, or in case of the neglect or refusal of such executor or executors, if any other sufficient person for, and in behalf of such slave, shall and do enter into such surety as aforesaid, in manner aforesaid, then the said slave shall be free, according to the true intent and meaning of such last will and testament: *And moreover,* That if any person shall, by last will or otherwise, manumit or set free his or her slave, and no such certificate or security as aforesaid be given or obtained, such slave shall nevertheless be considered as freed from such owner, his or her executors, administrators and assigns: But such owner, his and her heirs, executors and administrators shall remain and be liable to support and maintain such slave, if the same slave shall become unable to support and maintain himself or herself.

C H A P. XLI.

An ACT in the form of the Act recommended by the Resolution of the United States in Congress Assembled, of the Twenty-first Day of March, One Thousand Seven Hundred and Eighty-seven, to be passed by the several States, relative to the Treaty of Peace between the United States and the King of Great-Britain. Passed the 22d of February, 1788.

Preamble.

Preamble.

WHEREAS certain laws or statutes made and passed in some of the United States, are regarded and complained of as repugnant to the treaty of peace with Great Britain, by reason whereof not only the good faith of the United States, pledged by that treaty has been drawn into question, but their essential interests under that treaty, greatly affected: *And whereas* justice to Great Britain, as well as regard to the honor and interests of the United States require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do or may be construed to proceed from the laws of this State, be effectually removed, *Therefore,*

Acts, &c. repugnant to the treaty of peace repealed.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That such of the acts and parts of acts of the Legislature of this State are as repugnant to the treaty of peace between the United States and his Britanic Majesty or any article thereof shall be and hereby are repealed. *And further* that the Courts of Law and Equity within this State be, and they hereby are directed and required in all causes and questions

tions cognizable by them respectively, and arising from or touching the said treaty, to decide and adjudge according to the tenor, true intent and meaning of the same; any thing in the said acts or parts of acts to the contrary thereof in any wise notwithstanding.

C H A P. XLII

An ACT for suppressing Immorality. Passed the 23d of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That there shall be no travelling, servile labouring or working, (works of necessity and charity excepted) shooting, fishing, sporting, playing, horse-racing, hunting or frequenting of tipling-houses or any unlawful exercises or pastimes, by any person or persons within this State, on the first day of the week, commonly called *Sunday*. And that every person being of the age of fourteen years or upwards, offending in the premises, shall for every such offence forfeit and pay to the use of the poor of the city or town where such offence shall be committed, the sum of *six shillings*: And that no person shall cry, shew forth or expose to sale, any wares, merchandize, fruit, herbs, goods or chattels upon the first day of the week, commonly called *Sunday*, except small meat and milk and fish, before nine of the clock in the morning, upon pain that every person so offending shall forfeit the same goods so cried, shewed forth or exposed to sale, to the use of the poor of the city or town where such offence shall be committed; and if any person offending in any of the premises shall be thereof convicted, before any Justice of the Peace for the county, or any Mayor, Recorder or Alderman of the city, where the offence shall be committed; upon the view of the said Justice, Mayor, Recorder or Alderman, or confession of the party offending, or proof of any witness or witnesses upon oath, then the said Justice, Mayor, Recorder or Alderman, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the city or county where the offence shall have been committed, commanding him to seize and take the goods, so cried, shewed forth or exposed to sale as aforesaid, and to sell the same, and to levy the said other forfeitures or penalties, by distress and sale of the goods and chattels of such offenders, and to pay the money arising by the sale of such goods so seized, and the said other forfeitures or penalties, to the overseers of the poor of the city or town, where the said offence or offences shall have been committed, for the use of the poor thereof. And in case no such distress can be had, then every such offender shall, by a warrant under the hand and seal of the said Justice, Mayor, Recorder or Alderman be set publicly in the stocks by the space of two hours. And further, That if any person shall be found fishing, sporting, horse-racing, hunting, gunning or going to or returning from any market or landing with carts, waggons or sleds, on the first day of the week called *Sunday*, it shall be lawful for any constable or other citizen to stop every person so offending, and to detain him or her until the next day, and then to carry or convey him or her to some Justice of the Peace, to be dealt with according to law. *Provided always*, That no person going to or returning from any church or place of worship, within the distance of twenty miles, or going to call a physician, surgeon or midwife, or carrying a mail to or from any post-office, or going express by order of any public officer, shall be considered as travelling within the meaning of this act.

II. And be it further enacted by the authority aforesaid, That if any person charged with having laboured or worked on the said first day of the week called *Sunday*, and shall be brought before a Justice of the Peace to answer to such charge, and shall then and there prove to the satisfaction of the said Justice, that he or she uniformly keeps the last day of the week as holy time, and does not labour or work on that day, then such defendant shall be discharged. *Provided always*, That the work or labour with which

No travelling, servile labor or sporting, &c. to be done on Sunday.

Fine for offending therein.

Nothing to be exposed to sale on Sunday, except small meats, fish & milk, under forfeiture of the same.

On conviction thereof warrant to issue for seizing and selling the goods so exposed for sale.

And if no distress can be had offender to be set in the stocks.

Persons found fishing, &c. or going to market on Sunday how to be dealt with.

Proviso.

Persons keeping Saturday as holy time may work on Sunday.

Proviso.

which he or she is charged, has not disturbed other persons in the observance of the first day of the week, as holy time.

No writs to be executed on Sunday.

III. *And be it further enacted by the authority aforesaid,* That no person or persons upon the first day of the week commonly called *Sunday*, shall serve or execute, or cause to be served or executed any writ, process, warrant, order, judgment or decree (except in cases of treason, felony, or breach of the peace) but that the service of every such writ, process, warrant, order, judgment or decree, shall be void to all intents and purposes whatsoever, and the person or persons so serving or executing the same, shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree at all.

Persons cursing or swearing liable to a fine.

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons shall at any time or times hereafter, profanely swear or curse, and be thereof convicted by the confession of the party offending, or on the oath of any one or more witness or witnesses, or in the manner herein after mentioned, before any Justice of the Peace for any county, or any Mayor, Recorder, or Alderman of any city in this State, every person so offending, shall for every such offence forfeit and pay to the use of the poor of the city or town where such offence or offences shall be committed, the sum of *three shillings*.

Persons swearing in presence of a magistrate to be convicted without further proof.

V. *And be it further enacted by the authority aforesaid,* That in case any person shall profanely swear or curse in the presence and hearing of any Justice of the Peace for any county, or in the presence and hearing of any Mayor, Recorder, or Aldermen of any city, while in the execution of his office, every such Justice of the Peace, Mayor, Recorder or Alderman, shall and is hereby authorized and required to convict every such offender, of such offence, without any other proof whatsoever.

Persons convicted of swearing, who do not pay their fine, to be set in the stocks.

VI. *And be it further enacted by the authority aforesaid,* That in case any person who shall be convicted of profanely swearing or cursing, shall not immediately pay down the respective sums so forfeited, with the charges of such conviction, or give security to the satisfaction of the Justice, Mayor, Recorder, or Alderman, before whom such conviction is had, for the payment thereof within six days, then every such offender, being above the age of sixteen years, shall, by warrant under the hand and seal of such Justice, Mayor, Recorder or Aldermen, be set publicly in the stocks, by the space of one hour, for every single offence, and for any number of offences, whereof any such offender shall be convicted, at one and the same time, two hours; but if the offender shall not be above the age of sixteen years, and shall not forthwith pay the said forfeitures, or give security for payment thereof the parent or master shall pay the same, to be recovered as aforesaid.

Persons convicted of drunkenness to be fined three shillings.

VII. *And be it further enacted by the authority aforesaid,* That if any person shall be drunk, and of the same offence of drunkenness shall be lawfully convicted, before any Justice of the Peace for the county, or before the Mayor, Recorder or any Alderman of the city wherein such offence shall be committed, either upon the view of such Justice, Mayor, Recorder or Alderman, or upon the confession of the party offending, or proof of any one or more witness or witnesses, on oath, every person so offending shall forfeit and pay for every such offence, *three shillings*, to the use of the poor of the city or town wherein such offence shall be committed. And in case any person who shall be convicted of drunkenness as aforesaid, shall not immediately pay down the sum so forfeited, with the charges of such conviction, or give security to the satisfaction of the Justice, Mayor, Recorder or Alderman, before whom such conviction is had, for the payment thereof within six days, every such offender shall, by warrant under the hand and seal of such Justice, Mayor, Recorder or Alderman be set publicly in the stocks, by the space of two hours.

And on nonpayment of such fine to be set in the stocks.

Magistrates on information against offenders to cause them to be brought before them,

VIII. *And be it further enacted by the authority aforesaid,* That every Justice of the Peace, Mayor, Recorder or Alderman, shall immediately upon information given, upon oath, of any constable or other peace officer, or of any other person whatsoever, cause the offender and offenders against this act, to appear before him, and upon such information being proved as aforesaid, shall convict such offender and offenders in such manner as in and by this act is prescribed.

IX. *And*

IX. *And be it further enacted by the authority aforesaid,* That every Justice of the Peace, Mayor, Recorder and Alderman, before whom any person or persons shall be, by virtue of this act, convicted of any of the offences aforesaid, shall cause such conviction to be drawn up in the form following: "City of New-York, (or Westchester county, or other city or county, as the case may require) to wit: Be it remembered that on the—day of—, in the year of our Lord one thousand—

When persons are convicted before a Magistrate, such conviction how to be drawn up.

— A. B. was convicted before me, C. D. (Mayor or Recorder, or one of the Aldermen) of the said city (or one of the Justices of the Peace of the said county) of crying, (or shewing forth, or exposing to sale) one (or two or more, specifying the number, quantity and kind of goods) on a Sunday, in the said city (or the town of—in the said county) or (of travelling, or doing servile work, or labour or of shooting, fishing, sporting, playing, horse-racing, hunting or frequenting tipling-houses, or using some unlawful exercise or pastime) on Sunday (or) of swearing one (or two or more) profane oath (or oaths) (or) of cursing one (or two or more) profane curse (or curses) (or) of having been drunk in the said city (or at the town of—in the said county) as the case may require. Given under my hand and seal the day and year abovesaid". And such conviction shall not be liable to be removed by *certiorari* into the Supreme Court, but shall be deemed and taken to be final to all intents and purposes whatsoever.

Such conviction not removeable by *certiorari*.

X. *And be it further enacted by the authority aforesaid,* That all charges of the information and conviction of any such offender, shall be borne and paid by the party offending, if able, over and above the penalties inflicted by this act, which charges shall be settled and ascertained by the Justice, Mayor, Recorder or Alderman, before whom such conviction shall be had, but shall in no case exceed in the whole, *three shillings*. And the Justice, Mayor, Recorder or Alderman, before whom any proceedings shall be had upon this act, or his Clerk may take for the information, summons, conviction and warrant thereupon, *one shilling* and no more; and if the offender shall be set in the stocks for the same offence, no charges whatsoever shall be paid by any person whomsoever.

Charges of conviction to be paid by the offender.

XI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for every such offender to pay the said forfeitures and charges to the Justice, Mayor, Recorder or Alderman, before whom such conviction is had; and such Justice, Mayor, Recorder or Alderman, shall receive the same, and as soon as conveniently may be, pay the same forfeitures to the overseers of the poor of the city or town where such offence was committed, for the use of the poor thereof.

Forfeitures and charges to be paid to the Magistrate, for the use of the poor.

XII. *And be it further enacted by the authority aforesaid,* That all and every Justice of the Peace for the county, and every Mayor, Recorder or Alderman of the city, wherein any such offence shall be committed, may, and they are hereby respectively authorised and required to put this act in execution, against any person or persons within their respective jurisdictions, although such Justice, Mayor, Recorder or Alderman, shall be rated and pay to the relief of the poor of the city or town where any offence contrary to the true intent and meaning of this act shall be committed; any law or statute to the contrary notwithstanding.

All Magistrates required to put this act in execution.

XIII. *And be it further enacted by the authority aforesaid,* That no person shall be prosecuted or troubled for any offence against this act, unless the same be proved or prosecuted within twenty days, next after the offence committed.

Offences against this act to be prosecuted in twenty days or never.

XIV. *And be it further enacted by the authority aforesaid,* That if any suit or action shall be commenced or brought against any Justice of the Peace, Mayor, Recorder or Alderman, constable or other officer or person whatsoever, for doing or causing to be done any thing in pursuance of this act, concerning any of the said offences: The defendant in such action or suit may plead the general issue, and give the special matter in evidence: And if in any such action or suit a verdict shall be given for the defendant, or the plaintiff become non-suit, or discontinue his action, then the defendant shall have treble costs.

Magistrates sued for executing this act may plead the general issue.

C H A P. XLIII.

An ACT for the Limitation of Criminal Prosecutions, and of Actions and Suits at Law. Passed the 26th of February 1788.

Time limited for
bringing all actions
and suits at law, by
the people of the
State.

WHEREAS it is necessary for the peace of society that certain times be limited for bringing all actions and suits at law ; *therefore,*
BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That the people of the State of New-York shall not, nor will at any time after the first day of January which will be in the year one thousand eight hundred, sue, impeach, question or implead, any person or persons, bodies politic or corporate, for or in any wise concerning any manors, lands, tenements, rents or hereditaments whatsoever (other than liberties or franchises) or for or in any wise concerning the revenues, issues or profits thereof, or make any title claim, challenge or demand, of in or to the same, or any of them, by reason of any right or title which hath not first accrued and grown, or which shall not thereafter first accrue and grow within the space of forty years next before the filing, issuing or commencing of every such action, bill, plaint, information, commission or other suit or proceeding, as shall at any time or times thereafter, be filed, issued or commenced, for recovering the same, or in respect thereof, unless the people of the State of New-York, or some other person or persons, bodies politic or corporate, under whom the people of the State of New-York any thing have or lawfully claim, or thereafter shall have or lawfully claim, have or shall have been answered by force and virtue of any such right or title to the same, the rents, revenues, issues or profits thereof, or the rents, issues or profits of any manors or other hereditaments, whereof the premises in question shall be part or parcel, within the said space of forty years. *And further,* That all and every person or persons, bodies politic and corporate, their heirs and successors, and all claiming by, from or under them, or any of them, for and according to their and every their several estates and interests, which they have or claim to have, or hereafter shall or may have or claim to have in the same respectively, shall at all times hereafter quietly and freely, have, hold and enjoy, against the people of the State of New-York, claiming by any title which hath not first accrued or grown, or which shall not thereafter first accrue or grow within the space of forty years, all and singular the manors, lands, tenements, rents and hereditaments whatsoever (other than liberties and franchises) which he or they, or his or their, or any of their ancestors or predecessors, or those from, by or under whom, he or they, do or hereafter shall claim, or have, or hereafter shall have held or enjoyed or taken the rents, revenues, issues or profits thereof, by the space of forty years next before the filing, issuing or commencing of every such action, bill, plaint, information, commission or other suit or proceeding, as shall at any time or times thereafter be filed, issued or commenced, for recovering the same, or in respect thereof, unless the people of the State of New-York or some other person or persons, bodies politic or corporate, under whom the people of the State of New-York any thing have or lawfully claim, or hereafter shall have or lawfully claim in the said manors, lands, tenements, rents or hereditaments, by force of any right or title, have been or shall have been answered by virtue of any such right or title, the rents, revenues, issues or other profits thereof, within the said space of forty years. *And further,* That all and every person or persons, bodies politic and corporate, their heirs and successors, and all claiming or to claim, by, from and under them, or any of them, for and according to their and every of their several estates and interests, which they have or claim, or hereafter shall or may have or claim respectively, shall forever hereafter quietly and freely have, hold and enjoy all such manors, lands, tenements, rents and hereditaments (other than liberties and franchises) as they now have, claim or enjoy, or hereafter shall or may have claim or enjoy, whereof the people of the State of New-York, or he or they, by, from or under whom the people of the State of New-York any thing have or lawfully claim, or hereafter shall have or lawfully claim, or some of them, by force of some right or title to the same, have not or shall not

not have been answered by virtue of such right or title, the rents, revenues, issues or profits thereof within the space of forty years, next before the filing, issuing or commencing of every such action, bill, plaint, information, commission or other suit or proceeding, as shall at any time or times thereafter be filed, issued or commenced, for recovering the same, or in respect thereof, within the said space of forty years, against all and every person and persons, his and their heirs and assigns, having, claiming or pretending to have, or who shall or may have, claim, or pretend to have, any estate, right, title, interest, claim or demand whatsoever, of, in or to the same, by force or colour of any letters patent, or grants, upon suggestion of concealment, or wrongful detaining, or defective titles, or, by, from or under any patentees or grantees, or any letters patent or grants upon suggestion of concealment, or wrongful detaining; or defective titles, of, or for which said manors, lands, tenements, rents and hereditaments, or any of them, no verdict, judgment, decree, judicial order upon hearing, or sentence of any court, now standing in force, hath been had or given, or any such verdict, judgment, decree, judicial order upon the hearing or sentence of court, shall hereafter be had or given, in any action, bill, plaint or information in any court of record in this State, for or in the name of the people of the State of New-York; or for any of the said patentees or grantees, or for their or any of their heirs or assigns, within the space of forty years then last past, or within the space of forty years next before the filing, issuing, or commencing of every such action, bill, plaint, information, commission, or other suit or proceeding, as shall at any time or times hereafter be filed, issued, or commenced, for recovering the same, or in respect thereof as aforesaid.

II. *And be it further enacted by the authority aforesaid,* That no person or persons shall hereafter and before the first day of January which will be in the year one thousand eight hundred, sue, have or maintain, any writ of right, or make any prescription, title or claim, of, to or for, any manors, lands, tenements, or other hereditaments of the possession of his, or their ancestor, or predecessor, and declare and allege any further seisin or possession of his or their ancestor or predecessor, but only of the seisin or possession of his or their ancestor or predecessor, which hath been, or now is or shall be seised of the said manors, lands, tenements or other hereditaments, within sixty years next before the teste of the same writ, or next before the said prescription, title or claim so hereafter to be sued, commenced, brought, made or had.

III. *And be it further enacted by the authority aforesaid,* That no manner of person or persons, shall hereafter and before the said first day of January, which will be in the year one thousand eight hundred, sue, have, or maintain, any writ of entry, or other writ or action upon disseisin done to any of his or their ancestors or predecessors, or any other action, possessory, upon the possession of any of his or their ancestors or predecessors, for any manors, lands, tenements or other hereditaments, of any further seisin or possession of his or their ancestor or predecessor, but only of the seisin or possession of his or their ancestor or predecessor, which was or hereafter shall be seised of the same manors, lands, tenements or other hereditaments, within fifty years next before the teste of the original of the same writ, hereafter to be brought.

IV. *And be it further enacted by the authority aforesaid,* That no manner of person or persons, shall hereafter and before the said first day of January, which will be in the year one thousand eight hundred, sue, have or maintain, any action for any manors, lands, tenements or other hereditaments, of or upon, his, her or their own seisin or possession therein, above thirty years next before the test of the original of the same writ hereafter to be brought.

V. *And be it further enacted by the authority aforesaid,* That no manner of person or persons shall hereafter, and before the said first day of January, which will be in the year one thousand eight hundred, make any avowry or cognizance for any rent, suit or service and alledge any seisin of any rent, suit or service in the same avowry or cognizance, in the possession of his, her, or their ancestor or ancestors, predecessor or predecessors, or in his, her or their own possession, or in the possession of any other, whose estate he, she or they shall pretend or claim to have, above fifty years next before the making of the said avowry or cognizance, *Provided nevertheless,*

VI. *And*

Time limited for persons to sue out writs of right or make claim for lands, &c.

32 N.S. c. 2

S. 1.

Time limited for suing out writs of entry, or other actions possessory, on the possession of an ancestor.

N. S. 2.

Time limited for suing or maintaining an action for lands, upon a person's own possession.

N. S. 3.

Time limited for making any avowry or cognizance for rent, suit or service

N. S. 4

21-a. 1. c. 16. f. 3.

X. And be it further enacted by the authority aforesaid, That all actions of trespass *quare clausum fregit*, all actions of trespass, detinue, actions of trover and replevin for taking away of goods and chattels, all actions of account and upon the case, other than such actions as concern the trade of merchandize between merchant and merchant, their factors or servants: All actions of debt grounded upon any lending or contract without speciality; all actions of debt for arrearages of rent; all suits and actions in the Court of Admiralty for seamens wages, and all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall at any time hereafter be sued or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after: That is to say, the said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass, debt, detinue and replevin for goods or chattels, and the said actions of trespass, *quare clausum fregit*, and the said suits and actions for seamans wages, within six years next after the cause of such actions or suits, and not after; and the said actions of trespass for assault, menace, battery, wounding and imprisonment, or any of them, within four years next after the cause of such actions or suits, and not after; and the said

said actions upon the case for words, within two years next after the words spoken, and not after.

XI. *Provided always, and be it further enacted by the authority aforesaid,* That if in any of the said actions or suits, judgment shall be given for the plaintiff, and the same be reversed by error, or if a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill; or if any of the said actions shall be brought by original, and the defendant therein be outlawed, and shall after reverse the outlawry, that in all such cases, the party, plaintiff, his heirs, executors or administrators, as the case shall require, may commence a new action or suit, from time to time, within one year next after such judgment reversed, or such judgment given against the plaintiff, or outlawry reversed, and not after.

Where judgment in any of such actions is given for the plaintiff and the same be reversed by error, the plaintiff within one year may commence a new suit.

XII. *Provided also, and be it further enacted by the authority aforesaid,* That if any person or persons who is, or shall be entitled to such writ or writs of *formedon* or *scire facias*, or who hath or shall have such right or title of entry, be or shall be, at the time of the said right or title first descended, accrued, come or fallen, within the age of one and twenty years, *feme covert*, insane, or imprisoned, that then such person and persons and his and their heir and heirs, shall or may after the said twenty years be expired, bring such action, or make such entry as he or they might have done before this act, so as such person or persons shall, within ten years next after his or their full age, discoverture, coming of sound mind, or enlargement out of prison, or the heir or heirs of such person or persons within ten years next after the death of such person or persons, take benefit of and sue forth the same, and at no time after the said ten years. *And further,* That if any person or persons who is, or shall be entitled to any such suit or action, for seaman's wages, or to any such action of trespass *quare clausum fregit*, detinue, trover, replevin, actions of account, or upon the case, action of debt, action of trespass for assault, menace, battery, wounding, imprisonment, or action upon the case for words, or any of them, be or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty one years, *feme covert*, insane, or imprisoned, that then and in every such case, such person or persons, shall be at liberty to bring the same actions, so as they take the same within such times as are before limited, after their coming to, or being of full age, discoverture, of sane memory, or at large, as other persons having no such impediment should have done. *And moreover,* That if any person or persons against whom there is or shall be any such cause of suit, or action for seaman's wages, or against whom there is or shall be any cause of action of trespass, detinue, trover, or replevin, or of action of account, or upon the case, or of debt, grounded upon any lending or contract without specialty, or debt for arrearages of rent, or of trespass for assault, menace, battery, wounding or imprisonment, or any of them, be or shall be out of this State, at the time of any such cause of suit or action given, or accrued, fallen or come, then and in every such case, such person or persons, who is or shall be intitled to any such suit or action, shall be at liberty to bring the said actions, against such person or persons, after his, her or their coming or return to this State, so as they take the same after such return or coming to this State, within such times as are respectively before limited for the bringing of the said actions, by this act.

Proviso in favor of persons within age, insane or *feme covert*.

in favor of such as have cause of action against persons out of this State at the time the cause of action accrued.

4 Ann. c. 16

XIII. *And be it further enacted by the authority aforesaid,* That all actions, suits, bills, indictments, or informations, which at any time hereafter shall be had, brought, sued, or exhibited, for any forfeiture upon any penal statute made or to be made, whereby the forfeiture is or shall be limited to the people of the State of New-York only, shall be had, brought, sued or exhibited, within two years next after the offence committed or to be committed against such penal act, and not after the said two years. And that all actions, suits, bills or informations, which shall at any time hereafter be had, brought, sued, commenced or exhibited, for any forfeiture upon any penal statute, made or to be made, the benefit and suit whereof is, or shall be, by the said statute, limited or given to any person or persons who shall prosecute for the same, or to the people of the State of New-York, and to any other, who shall prosecute in that

Time limited for bringing actions or informations for forfeitures upon any penal statute.

31 Eliz. c. 5

S. 5.

that behalf shall be had, brought, sued, commenced or exhibited by any person who may lawfully pursue for the same as aforesaid, within one year next after the offence committed or to be committed against the said statute; and in default of such pursuit, that then the same shall be had, sued, exhibited or brought for the people of the State of New-York, at any time within two years after that year ended. And that all actions, suits, bills or informations, which shall at any time hereafter be had, brought, sued, commenced or exhibited for any forfeiture or cause, upon any statute made or to be made, the benefit and suit whereof is or shall be given or limited to the party aggrieved, shall be had, brought, sued, commenced or exhibited, within the space of three years, next after the offence committed or to be committed, or cause of action accrued and not after. And if any action, suit, bill, indictment or information, for any offence against any statute, made or to be made, shall be brought after the time in that behalf before limited, that then the same shall be void and of none effect; any law, usage, or custom to the contrary notwithstanding.

Proviso.

N. S. 6

Time limited for bringing any criminal suit.

Provided always, That where any action, information, indictment or other suit, is or shall be limited by any statute, to be had, sued, commenced, brought or exhibited, within a shorter time than is hereby limited, then and in every such case, the action, information, indictment or other suit, shall be brought within the time limited by such statute.

XIV. *And be it further enacted by the authority aforesaid,* That all suits informations or indictments, which at any time hereafter shall be brought, commenced or exhibited, for any crime or misdemeanor (murder excepted) whether capital or not capital, shall be brought, commenced or exhibited, within three years next after the offence committed or to be committed, and not after the expiration of the said three years. And if any suit, information or indictment, for any crime or misdemeanor (except murder) shall be had, brought or exhibited, after the time hereby limited, that then the same shall be void and of none effect; any law, usage or custom to the contrary notwithstanding.

Proviso.

Provided always, That where any information, indictment or other suit, for any crime or misdemeanor is limited by any statute, to be brought or exhibited, within a shorter time than is hereby limited, then and in every such case, the information, indictment, or other suit, shall be had, brought or exhibited, within the time limited by such statute.

The period between certain given times, not to be computed as parts of the times in this act limited.

XV. *And be it further enacted by the authority aforesaid,* That no part of the time from the fourteenth day of October in the year one thousand seven hundred and seventy five, to the twenty-first day of March one thousand seven hundred and eighty three, shall be deemed, computed, pleaded or adjudged, as part of the respective periods herein before limited for making any title, prescription, cognizance or claim, or bringing, suing, commencing or prosecuting any writ, action, suit or plaint.

C H A P. XLIV.

An ACT for Directing the manner of Proving Deeds and Conveyances to be Recorded. Passed the 26th of February, 1788.

All deeds and papers relating to real property heretofore executed, acknowledged and recorded in the proper offices, or the record or transcript to be received as evidence in courts.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all and every deed and deeds, conveyance and conveyances, and writings whatsoever relating to the title or property of any messuages, lands, tenements or hereditaments within this State, heretofore executed or hereafter to be executed, being duly acknowledged by the party or parties executing the same, or duly proved by one or more of the subscribing witnesses

witnesses to the execution thereof, and recorded in the Office of the Secretary of this State, or in the Office of the Clerk of the county in which such lands are situated, shall and may be read as evidence, in any court in this State, without further or other proof of the execution thereof, and the record thereof, or a transcript of the same, shall and may be given and received in evidence.

II. *And be it further enacted by the authority aforesaid,* That no deed, conveyance or other writing relating to any lands, tenements or real estate, heretofore executed and not already acknowledged or proved according to law, or hereafter to be executed, shall be recorded, unless the same shall be duly acknowledged by the party or parties executing the same, or the execution thereof be duly proved by one or more of the subscribing witnesses to the same, before one of the Justices of the Supreme Court, or a Master in Chancery, or one of the Judges of the Court of Common Pleas in and for the county where such lands and real estate are situated; or if such lands and real estate be in the city of New-York, Albany or Hudson, before the Mayor or Recorder of the same cities respectively; and a certificate of such acknowledgment or proof be indorsed upon such deed, conveyance or other writing, signed by the person before whom the same was taken.

Deeds hereafter how to be proved before they can be recorded:

III. *And be it further enacted by the authority aforesaid,* That no estate of a *feme covert*, shall henceforth pass by her deed, without a previous acknowledgment by her on a private examination, apart from her husband, before one of the Justices of the Supreme Court, or a Master in Chancery, or one of the Judges of the Court of Common Pleas, in and for the county where such lands or real estate shall be situated; or if such lands or real estate be in the city of New-York, Albany or Hudson, before the Mayor or Recorder of the same cities respectively, that she execute such deed freely without any fear or compulsion of her husband, and a certificate thereof purporting that she had been privately examined, and confessed that she executed the same freely, without any fear or compulsion of her husband, indorsed on the deed conveying the same, and signed by the person before whom such acknowledgment shall be made.

Estates of *feme coverts* not to pass by their deeds, unless they are privately examined, apart from their husbands, before a Judge or Master in Chancery, &c. and confess the execution to be without fear or compulsion.

C H A P. XLV.

An ACT to Prevent Frauds by Mortgages, and for Securing the Purchasers of Mortgaged Estates. Passed the 26th of February, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That each and every of the Clerks of the respective cities and counties in this State, shall from time to time provide fit and convenient blank books for the registering of all mortgages, of any messuages, lands, tenements or hereditaments, situate and lying within their respective cities and counties, in which register shall be entered the names of the mortgagors and mortgagees; the dates of the respective mortgages, the mortgage money, the time or times when payable, the description and boundaries of the messuages, lands, tenements or hereditaments mortgaged, and the time when such mortgages are registered or recorded to which register all persons whomsoever at proper seasons may have recourse and search, and for which the said Clerks shall have and receive for entering each mortgage, the sum of six shillings, and for every search one shilling, and no more. *And further,* That if any Clerk shall neglect or refuse to do the duty required of him by this act, he shall answer to the party injured, all damages which shall happen by reason of such neglect or refusal.

Clerks of counties to provide books for registering mortgages.

What parts of mortgages are to be entered in such books.

All persons to have recourse thereto, and the fees allowed for registering and searching.

II. *Provided always, and be it further enacted by the authority aforesaid,* That no deed, conveyance, or other writing by way of mortgage shall, after the passing of this act, be entered in any such register, unless the execution thereof be duly acknowledged

No mortgage to be registered without it be acknowledged before a Judge, &c. and certificate of the same indorsed thereon.

known by the grantor or grantors, or proved by one or more of the subscribing witnesses to the execution thereof, before one of the Justices of the Supreme Court, or a Master in Chancery, or one of the Judges of the Court of Common Pleas of the county where the messuages, lands, tenements or hereditaments so mortgaged lay; or if the same messuages, lands, tenements or hereditaments shall be in the city of New-York, Albany or Hudson, before the Mayor or Recorder of the same cities respectively, who are hereby respectively authorized and required to take the same, and to indorse a certificate of such acknowledgment or proof of the execution of such mortgages, in the manner and form directed and prescribed in and by the act, entitled "An act directing the manner of proving deeds and conveyances to be recorded."

Every deed executed after a certain time, appearing only to be by way of security, tho' it be in absolute terms, to be considered as a mortgage, and registered as such. And the registry thereof to be of no validity unless the instrument which makes it a conditional deed, be registered therewith.

III. *And be it further enacted by the authority aforesaid,* That every deed, conveying a real estate, made after the first day of June in the year one thousand seven hundred and seventy-four, or to be made after the passing of this act, which by any other instrument or writing shall appear to have been intended only as a security in the nature of a mortgage, tho' it be an absolute conveyance in terms, shall be considered as a mortgage, and be deemed and adjudged to be liable to be registered as other mortgages are by virtue of this act; and that the person or persons for whose benefit such deed shall be made, shall not have the advantages given by this act to mortgages, unless every instrument and writing operating as a defeazance of the same, or explanatory of its being designed to have the effect only of a mortgage or conditional deed, be also therewith registered in substance, as in case of a mortgage.

When two or more mortgages are executed by the same person on the same lands, that which is first registered to have priority.

IV. *And be it further enacted by the authority aforesaid,* That if any person or persons, whomsoever, hath or have, after the first day of June, in the year one thousand seven hundred and fifty-four, mortgaged, or shall after the passing of this act, mortgage any messuages, lands, tenements or hereditaments, to two or more persons, at different times, and any doubt or dispute shall arise about the priority of such mortgages, that then and in such case, the mortgage first entered in the register in the city or county where the lands, tenements or real estates so mortgaged lie, in the manner herein before directed, shall be deemed and taken, and is hereby declared, and shall be adjudged by all Courts of Law and Equity within this State, to be the first or prior mortgage; provided it hath been or shall be made *bona fide* and upon good and valuable consideration; any law, usage or custom to the contrary notwithstanding.

Where two or more mortgages are executed, whether by the same or different persons on the same lands, that which is first registered to have priority.

V. *And be it further enacted by the authority aforesaid,* That every mortgage of the same real estate or estates, or parts thereof, executed after the nineteenth day of March, in the year one thousand seven hundred and seventy-four, or to be executed after the passing of this act, whether made by the same or different persons, shall have priority, and the benefits thereof given by this act, according to the time of the actual registry thereof.

When mortgages are redeemed and paid off, how they are to be cancelled and the clerks fees therefor.

VI. *And be it further enacted by the authority aforesaid,* That whenever any mortgage or mortgages, so entered as aforesaid, shall be redeemed, paid off, and discharged, the Clerks of the respective cities and counties, on application to them made by the mortgagors, or persons redeeming, paying off, and discharging such mortgages, and producing a certificate to the respective Clerks of the respective cities or counties, signed by the respective mortgagee or mortgagees in such mortgage named, his, her or their executors, administrators or assigns, in the presence of two or more witnesses, and acknowledged by the party or parties signing the same, or proved by the oath of at least one of the subscribing witnesses thereto, before one of the Justices of the Supreme Court, or a Master in Chancery, or one of the Judges of the Court of Common Pleas of the county, where the messuages, lands, tenements or hereditaments, so mortgaged lie; or if such mortgaged premises be in the city of New-York, Albany or Hudson, before the Mayor or Recorder of the same cities respectively, and the same acknowledgment or proof be indorsed on such certificate, such respective clerks shall, and they are hereby required to enter in the aforesaid book or register of mortgages a minute of the said discharge or discharges; which minute so entered, shall be deemed and taken to be and is hereby declared to be, a full, perfect and absolute bar to the first entry of any such mortgage or mortgages; for which entry the respective Clerks shall have and receive the sum of *one shilling* & no more. And

And whereas many real estates are held under sales made by mortgagees, who were authorized by the mortgagor or mortgagors to make conveyance of the same in fee, for the payment of the debt or demand secured by such mortgage, and to return the surplus of the purchase money to the mortgagor or mortgagors; and as many inconveniencies may arise, vexatious suits be promoted and bona fide purchasers ruined, if such estates should be redeemable in equity, *Therefore,*

VII. *Be it further enacted by the authority aforesaid,* That no good and bona fide sale of messuages, lands, tenements or hereditaments, made or to be made by mortgagees or others authorized thereunto, by special power for that purpose, in due form of law, from him or them who had the equity of redemption, shall be defeated to the prejudice of the bona fide purchasers thereof, in favor or for the advantage of any person or persons claiming a right of redemption in equity: *Provided always,* That nothing in this act contained, shall be construed to prejudice any other mortgagee of the same messuages, lands, tenements or hereditaments, or any part thereof whose title accrued prior to such bona fide sale; or any creditor to whom the mortgaged premises or any part thereof, was before bound by any judgment at law, or decree in equity: And to prevent fraudulent advantages from being taken to the prejudice of young and extravagant persons,

No bona fide sales of mortgaged estates to be defeated in favor of the person claiming the equity of redemption.

This however not to prejudice any other mortgagee, or creditor, whose title accrued prior to such sale.

VIII. *Be it further enacted by the authority aforesaid,* That nothing in this act contained shall operate for the security of any purchase in fee, under any power executed for that purpose after the said nineteenth day of March, in the year one thousand seven hundred and seventy-four, or to be executed for that purpose after the passing of this act, to the mortgagee or mortgagees, unless the person or persons giving such power, be of the age of at least twenty-five years: *And further,* That all power to mortgagees now made, or hereafter to be made, for making sales in fee, shall be acknowledged or proved and recorded as other deeds and conveyances usually are before the conveyances for the sale be executed. *And moreover,* That every such sale shall be at public auction or vendue; and public notice shall be given thereof by advertisements, one copy whereof to be inserted and continued at least once a week for six months previous to such sale, in one of the public news-papers printed in this State, and another copy thereof to be fixed upon the outward door of the Court-House of the city or county in which the mortgaged premises, or the greater part of them lay.

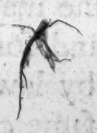
This act not to secure any purchase in fee, under a power executed to mortgagees, by any person under 25 years of age.

Powers to mortgagees for making sales, how to be proved and recorded.

And such sales to be at public auction.

IX. *And be it further enacted by the authority aforesaid,* That no deed, conveyance, instrument or writing whatsoever in the nature of a mortgage, made and executed after the said nineteenth day of March in the year one thousand seven hundred and seventy-four, or to be made and executed after the passing of this act, shall in any manner defeat, prejudice or effect the title or interest of any bona fide purchaser, of any messuages, lands, tenements or hereditaments, unless the same shall have been duly registered in manner aforesaid, any thing in this act contained to the contrary notwithstanding.

No mortgage to defeat the title of a bona fide purchaser unless the same be registered.



C H A P. XLVI.

An ACT for the Amendment of the Law, and the better Advancement of Justice.
Passed the 27th of February, 1788.

BE it enacted By the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any two or more, dealing together, be indebted to each other, upon bonds, bills, bargains, contracts, promises, accounts or the like, and one of them or his or her executors or administrators, commence an action against the other or others, his or her or their executors or administrators, in any court of this State, if the defendant or defendants cannot gainsay the deed, bargain or assumption, upon which he, she or they

Where two or more persons dealing together are indebted to each other, upon bonds or otherwise, and one sue the other, the defendant may plead payment, giving notice with the said plea, what he will insist on at the trial for discharge.

Where the suit is brought on bond, the sum bona fide due (and not the penalty) to be considered as the debt due.

If it appears that nothing is due the jury shall find for the defendant, who shall have his costs unless the plaintiff sues as an executor.

If part of the debt is found to be paid, so much shall be discounted.

If the debt is overpaid, the jury shall find for the defendant, and certify to the Court how much is overpaid, which shall be recorded with the verdict, and the defendant have judgment for the same.

Unless the plaintiff be an executor, in which case it shall be deemed a debt of record.

If it appears in any cause that the trial requires the examination of long accounts, the Court after issue joined, with or without consent of parties, may refer the same to three referees.

Unless on naming them the parties agree upon others, or elect that 3 jurors be ballotted.

When the report of the referees is confirmed by the Court, judgment to be entered as if a verdict had passed.

is or are sued, it shall be lawful for such defendant or defendants to plead payment of all or any part of the debt or sum demanded, giving notice, in writing, with the said plea, of what he, she or they will insist upon at the trial, for his, her or their discharge, and to give any bond, bill, receipt, account, bargain or contract so given notice of in evidence; and if such suit shall be brought on a bond, bill or other contract, for the recovery of a penalty, or the non-payment of money only, or for a penalty to secure or enforce the payment of money only: And if any bond, bill or contract with such penalty as aforesaid shall be given in evidence for the plaintiff or defendant upon such trial, in all such cases the sum *bona fide* and in equity due, and not the penalty shall be deemed as the debt due: And if it shall appear that the debt or sum demanded is paid or satisfied, the jury shall find for the defendant or defendants, and judgment shall be entered that the plaintiff or plaintiffs take nothing by his, her or their writ, bill, or plaint; and unless the plaintiff or plaintiffs prosecute as executors or administrators, the defendant or defendants shall also recover, his, her or their costs of suit against such plaintiff or plaintiffs; and if it shall appear that any part of the debt or sum demanded is paid or satisfied, then so much as is found to be paid or satisfied, shall be discounted, and the plaintiff or plaintiffs shall have judgment for the residue only, with costs of suit: But if it appear to the jury that the plaintiff or plaintiffs is, or are overpaid, then they shall find a verdict for the defendant or defendants, and withal certify to the court how much they find the plaintiff or plaintiffs to be indebted or in arrear to the defendant or defendants, more than will answer the debt or sum demanded, and the sum so certified, shall be recorded with the verdict, and the defendant or defendants shall have judgment and execution for the same, together with his, her or their costs of suit, unless the plaintiff or plaintiffs prosecute as executors or administrators, in which case the sum so certified shall be deemed a debt of record, to be paid in the course of administration, and the defendant or defendants, for recovery thereof, shall have an action of debt, or a *scire facias* against the plaintiff or plaintiffs in the said action.

II. *And be it further enacted by the authority aforesaid,* That whenever it shall appear probable in any cause depending in any Court of Record in this State, as well where an executor or executors, administrator or administrators, is, are or may be party or parties, as otherwise that the trial of the same will require the examination of a long account, either on one side or the other, the said court at any time after issue is joined in such cause is hereby authorised with or without the consent of parties to refer such cause by rule to be made at discretion to referees, who shall be three such persons as the Court shall nominate, unless upon naming them the parties agree upon and name others, or shall elect that three persons be ballotted for, out of the panel of the jurors, if there be a jury returned for the trial of the cause in the usual form of balloting for jurors; which referees finally fixed on, shall hear and examine the matters in controversy, and report thereon, upon pain of contempt; and an entry shall be made upon the record of such reference, and day shall be given to the parties from time to time, until the referees shall make a report in the premises, or they be thereof discharged: And if the report or award of the referees, or of the major part of them shall be confirmed by the said Court, and any sum be thereby found for the plaintiff or plaintiffs, judgment shall be entered for the same with costs, if by law the plaintiff or plaintiffs would have recovered costs, had a verdict passed in the same cause for the sum so reported to be due; but if the referees or the major part of them shall report that there is not any thing due to the plaintiff or plaintiffs, and the report be confirmed, then judgment shall be entered against the plaintiff or plaintiffs that he, she, or they take nothing by his, her or their writ, bill or plaint; and the defendant or defendants shall in such case have judgment for and recover his, her or their costs, to be taxed, against the plaintiff or plaintiffs, if by law such defendant or defendants would have been entitled to costs, if a verdict had passed in the same cause for him, her or them; and if in any case the referees or the major part of them shall report any sum to be due to the defendant or defendants and the report be confirmed, then judgment shall be entered against the plaintiff or plaintiffs, that he, she or they take nothing by his

his, her or their writ, bill or plaint: *And further*, That the defendant or defendants shall recover against such plaintiff or plaintiffs the sum so reported to be due to him, her or them with costs of suit, to be taxed, and shall have execution for the same; unless the plaintiff or plaintiffs prosecuted as executors or administrators, in which case the sum so reported, with the costs so taxed, shall be deemed a debt of record, to be paid in the course of administration, and the defendant or defendants for the recovery thereof shall have an action of debt or a *scire facias* against the plaintiff or plaintiffs.

III. *And be it further enacted by the authority aforesaid*, That where any such action or *scire facias* shall be brought for the recovery of any sum so found or reported to be due to any defendant or defendants, the person or persons against whom such action or *scire facias* shall be brought, may plead that he, she or they had fully administered the goods of his, her or their testator or intestate, at the time of the verdict given or report made, and may give in evidence any payments made by him, her or them, or judgment obtained against him, her or them, before that time.

IV. *And be it further enacted by the authority aforesaid*, That upon taxing the costs in all causes so referred, where costs are to be recovered, a reasonable allowance shall be made to the prevailing party, for such services and expences as may accrue upon or attend the reference of the cause, and that process of *Subpoena* may issue to convene witnesses before the referees, as is usual on the execution of writs of enquiry of damages, who shall be examined on oath; and that there shall be allowed to each referee attending the said business, the sum of eight shillings for every day necessarily spent in the business of the reference, besides a reasonable allowance for their expences, which shall be paid by the prevailing party, and shall be allowed upon taxing costs, where costs are recoverable. *And further*, That each referee, before he proceeds to the business of the reference, shall take an oath faithfully and fairly to hear and examine the cause, and make a true and just report, according to the best of his skill and understanding; which oath, as well as the oaths of the witnesses, may be taken before any Judge of any Court of Record or any Justice of the Peace.

V. *And be it further enacted by the authority aforesaid*, That where any action of debt is or shall be brought upon any single bill, or where any action of debt or *scire facias*, is or shall be brought upon any judgment, if the defendant hath paid the money due upon such bill or judgment, such payment shall and may be pleaded in bar of such action or suit, and where an action of debt is or shall be brought upon any bond which hath a condition or defeazance to make void the same upon payment of a less sum, at a day or place certain, if the obligor, his heirs, executors or administrators have, before the action brought, paid to the obligee, his executors or administrators, the principal and interest due by the condition or defeazance of such bond, though such payment was not made strictly according to the condition or defeazance, yet it shall and may nevertheless be pleaded in bar of such action, and shall be as effectual a bar thereof as if the money had been paid at the day and place, according to the condition or defeazance, and had been so pleaded.

VI. *And be it further enacted by the authority aforesaid*, That if at any time pending an action upon any such bond with a penalty, the defendant shall bring into the Court where the action shall be depending, all the principal money and interest due on such bond, and also all such costs as have been expended in any suit or suits in law or equity, upon such bond, the said money so brought in, shall be deemed and taken to be in full satisfaction and discharge of the said bond, and the Court shall and may give judgment to discharge every such defendant of and from the same accordingly.

VII. *And be it further enacted by the authority aforesaid*, That in all actions now depending, or hereafter to be commenced or prosecuted in any Court of Record, upon any bond or bonds, or for any penal sum, for non-performance of any covenants or agreements in any indenture, deed or writing contained, or upon any bond or bonds, with any condition, other than for payment of money, the plaintiff or plaintiffs may assign as many breaches as he or they may think fit, and the jury upon trial of such action or actions, shall and may assess, not only such damages and costs of suit as have heretofore been usually done in such cases; but also damages, for such of the said breaches

If the plaintiff sued as executor, the sum reported against him, to be considered as a debt of record, and the defendant to have an action of debt or *scire facias*.

Where such *scire facias* is brought, the person may plead that he had fully administered the goods of his testator, at the time of the verdict.

On taxing costs on causes so referred a reasonable allowance to be made to the prevailing party for the expences of such reference; and subpoena to issue for convening witnesses before the referees.

Allowance to referees.

Referrees to take an oath before they proceed to the business of the reference.

Where an action of debt is brought on any single bill, &c. if the money due is paid, the defendant may plead the same in bar of such suit.

4 Ann. c. 16

§ 12.

If at any time pending an action, on any bond with a penalty; the defendant brings the money due into court, it shall be taken in discharge of such bond.

4 Ann. c. 16

In all actions upon bonds, or for non-performance of covenants in deeds, indentures, &c. the plaintiff may assign as many breaches as he pleases, and what damages the jury may assess.

8 & 9 W. 3. c. 11.

And if judgment is given for the plaintiff on the demurrer, or confession, what process shall follow.

840. N. 3. c.

11. -

breaches so assigned, as the plaintiff or plaintiffs, upon the trials of the issues, shall prove to have been broken, and that the like judgment shall be entered on such verdict, as heretofore hath been usually done in such like actions: and if the judgment shall be given for the plaintiff or plaintiffs on a demurrer, or by confession, or *nihil dicit*, the plaintiff or plaintiffs may suggest upon the roll or record as many breaches of the covenants, conditions or agreements, as he or they shall think fit, upon which shall issue a writ to the Sheriff of the county where the action is or shall be brought or laid, to summon a jury to appear in the Court, where the action is or shall be brought, if such Court shall sit in the same county where the action is or shall be brought, or in case the Court in which the action is or shall be brought, shall not sit in the County where the action is laid, then before the Justices or Justice of the Supreme Court, at the next Circuit Court to be held in the county, where the action is laid, to enquire of the truth of every one of those breaches, and to assess the damages that the plaintiff or plaintiffs shall have sustained thereby, in which writ, if to be executed before the Justices of the Supreme Court or any of them, at the Circuit Court, it shall be commanded to the said Justices or Justice, who shall hold such Circuit Court, that he or they make a return thereof to the Court from whence the same writ shall issue at the time in such writ mentioned: And in case the defendant or defendants, after such judgment entered, and before any execution executed, shall pay into the Court where the action is or shall be brought, to the use of the plaintiff or plaintiffs, or his or their executors or administrators such damages, so to be assessed by reason of all or any of the breaches of such covenants conditions or agreements, together with costs of suit, a stay of execution of the said judgment, shall be entered upon record; or if by reason of any execution executed, the plaintiff or plaintiffs, or his or their executors or administrators shall be fully paid or satisfied all such damages so assessed, together with his or their costs of suit, and all reasonable charges and expences for executing the said execution, the body, lands and goods of the defendant shall be thereupon forthwith discharged from the said execution, which shall likewise be entered upon record; but notwithstanding, in each case, such judgment shall remain, continue and be, as a further security to answer to the plaintiff or plaintiffs, and his or their executors or administrators, such damages as shall or may be sustained, for further breach of any covenant or covenants, condition or conditions, agreement or agreements in the same bond, indenture, deed or writing contained, upon which the plaintiff or plaintiffs or his or their executors or administrators, may have a *scire facias* upon the said judgment against the defendant or defendants, or against his, her or their heirs, devisees, or terre-tenants, or executors or administrators, suggesting other breaches of the said covenants, conditions or agreements, and to summon him or them respectively to shew cause why execution shall not be had or awarded upon the said judgment, upon which there shall be the like proceedings as were in the action of debt upon the said bond or obligation for assessing of damages upon trial of issues joined upon such breaches, or inquiry thereof, upon a writ to be awarded in manner aforesaid. And that upon payment or satisfaction in manner as aforesaid, of such future damages, costs and charges as aforesaid, all further proceedings on the said judgment shall again be stayed, and so *toties quoties*; and the defendant, his body, lands and goods shall be discharged out of execution as aforesaid.

Where any person is arrested by writ, &c. and the Sheriff takes bail from the person arrested, he shall at the request of the plaintiff assign the bail bond to him.

4 Ann. c. 16

Remedy given where the said bail bond is forfeited.

VIII. *And be it further enacted by the authority aforesaid,* That if any person or persons have been or shall be arrested by any writ, bill or process issuing out of any Court of Record, at the suit of any common person or persons, and the Sheriff or any other officer hath taken or shall take bail from such person or persons against whom such writ, bill or process was or shall be taken out, the Sheriff or other officer, at the request and costs of the plaintiff in such action or suit, or his lawful attorney, shall assign to the plaintiff in such action, the bail bond or other security taken from such bail, by indorsing the same and attesting it under his hand and seal, in the presence of two or more credible witnesses: And if the said bail bond or assignment or other security taken for bail, be forfeited, the plaintiff in such action, after such assignment made, may bring an action or suit thereupon in his own name, and the court where the

the action is brought, may by rule or rules of the same Court, give such relief to the plaintiff and defendant in the original action, and to the bail upon the said bond, or other security taken from such bail, as is agreeable to justice and reason; and that such rule or rules of the said Court shall have the nature and effect of a defeazance of such bail bond, or other security for bail.

IX. *And be it further enacted by the authority aforesaid,* That in all actions depending or to be commenced in any Court of Record, if any plaintiff happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff, and if the defendant die after such interlocutory judgment and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant; and the plaintiff, or if he be dead, after such interlocutory judgment, his executors or administrators, shall and may have a *scire facias* against the defendant if living, after such interlocutory judgment, or if he died after, then against his executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him or them; and if such defendant, his executors or administrators shall appear at the return of such writ, and not shew or alledge any matter sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned that the defendant, his executors or administrators, had nothing whereby he or they might be summoned, and could not be found in the county, shall make default that thereupon a writ of inquiry of damages shall be awarded, which being executed and returned, judgment final shall be given for the said plaintiff, his executors or administrators prosecuting such writ or writs of *scire facias*, against such defendant, his executors or administrators respectively.

ACTIONS not to abate after an interlocutory judgment, by reason of the death of the plaintiff or defendant.

849 M3.c.

11.

X. *And be it further enacted by the authority aforesaid,* That if in any action or suit there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

In any action where there are two or more plaintiffs or defendants, the suit shall not abate by the death of one of them.

Id.

XI. *And be it further enacted by the authority aforesaid,* That in all actions real, personal or mixed, the death of either party between the verdict and the judgment shall not hereafter be alledged for error, so as such judgment be entered within two terms after such verdict.

Death of either party between verdict and judgment not to be alledged for error.

18 Car 2. c. 8.

And whereas suits commenced by original writs have been protracted and delayed by reason of the necessity of having fifteen days at the least, between the days of the teste and the days of the return of the writs used in personal actions, and in actions of ejectment for lands and tenements: *For remedy whereof,*

Recital.

XII. *Be it further enacted by the authority aforesaid,* That in all actions of debt, and all other personal actions whatsoever, and in all actions of ejectment for lands or tenements now depending or which at any time hereafter shall be depending, by original writ, in any Court of Record, after any issue joined therein, to be tried by a jury, and also after any judgment had or obtained, or to be had or obtained, in any such Court, in any such action as aforesaid, there shall not need to be fifteen days between the teste day and the day of the return of any writ or writs of *venire facias*, *habeas corpora juratorum*, or *distringas juratores* writs of *fieri facias* or *capias ad satisfaciendum* (except writs of *capias ad satisfaciendum*, whereon a writ of exigent after judgment is to be awarded, and writs of *capias ad satisfaciendum* against defendants in order to make any bail liable) and that the want of fifteen days between the teste day and the day of the return of any such writ (except as before excepted) shall not be, nor shall be assigned, taken or adjudged to be any matter or cause of error.

The want of fifteen days between the teste day and return of any writs not to be alledged for error.

And

A a

Recital.

And whereas many great inconveniencies have arisen to the citizens and inhabitants of this State, by means of delaying the trials of causes between party and party after issue joined: *For remedy whereof,*

After issue joined in any action, if the plaintiff neglects to bring such issue to trial, the judge may give judgment as in cases of non-suit.

14 Geo. 2. c.
17. S. 5.

And such judgment to have the same force as judgments upon non-suits.

Where the defendant lives more than 40 miles from the place of trial, notice to be given 14 days before.

And if such notice is given, and is not afterwards countermanded six days before the intended trial, the party so neglecting to pay costs.

In any suit to be brought in Chancery, where there are two or more plaintiffs or defendants, the suit not to abate by the death of one of them, if the suit survives to or against the other.

In any suit or action in Chancery where there are two or more plaintiffs or defendants, and one of them dies, if the suit shall not survive it shall only be abated with respect to the person deceased, and the mode of proceeding in such case.

XIII. *Be it further enacted by the authority aforesaid,* That where any issue is or shall be joined, whether the issue roll be filed or not, in any action or suit at law, in any Court of Record, and the plaintiff or plaintiffs in any such action or suit hath or have neglected, or shall neglect to bring such issue on to be tried according to the course and practice of the said courts respectively, it shall and may be lawful for the Judge or Judges of the said Court respectively at any time after such neglect, upon motion made in open court (due notice having been given thereof) to give the like judgment for the defendant or defendants in every such action or suit as in cases of non-suit, unless the said Judge or Judges shall upon just cause and reasonable terms allow any further time or times for the trial of such issue; and if the plaintiff or plaintiffs shall neglect to try such issue within the time or times so allowed, then, and in every such case, the said Judge or Judges shall proceed to give such judgment as aforesaid: And that all judgments so given shall be of like force and effect, as judgments upon non-suits, and of no other force or effect: *And also,* That the defendant or defendants shall upon such judgment be awarded, his or her or their costs in any action or suit where he, she or they would upon non-suit be entitled to the same, and in no other action or suit whatsoever.

XIV. *And be it further enacted by the authority aforesaid,* That no indictment, information or cause whatsoever, shall be tried before any Judge or Judges of any Court of Record within this State, where the defendant or defendants reside above forty miles from the place where the Court is held, in which such cause shall be tried unless notice of trial in writing has been given at least fourteen days before such intended trial.

XV. *And be it further enacted by the authority aforesaid,* That in case any party or parties shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same, in writing, at least six days before such intended trial, every such party shall be obliged to pay unto the party or parties to whom such notice of trial shall have been given as aforesaid, the like costs and charges, as if such notice of trial had not been countermanded.

XVI. *And be it further enacted by the authority aforesaid,* That if in any suit or action now depending, or hereafter to be brought in the Court of Chancery, there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of such suit or action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, such suit or action shall not be thereby abated; but such death being suggested and shewn by affidavit or otherwise, to the satisfaction of the Court, such suit or action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

XVII. *And be it further enacted by the authority aforesaid,* That in all and every suit or action in the Court of Chancery in which any bill or bills is, are, or shall or may hereafter be filed, and in which there shall be two or more plaintiffs or defendants, and any of them shall die and the cause of action shall not survive, but other persons shall become parties in interest, in right or by the death of such deceased party, such suit shall by reason of such death be abated, only with respect to such deceased person or persons and the surviving plaintiff or plaintiffs shall and may proceed against the surviving defendant or defendants without reviving the suit against the representatives of the deceased party, or any other who may become interested by the death of such person or persons, but that in such case such representatives or such person or persons as shall become interested by the death of such party, shall not be bound by any order or decree in such cause to which they are not made parties: And in case the plaintiff or plaintiffs shall chuse to make the representatives of the deceased person or others who may become interested by the death of such person parties to such suit, no bill of *revisor* or *subpœna ad revivendum* shall be necessary, but the court shall and may, by rule or order as often as there shall be occasion for it, direct the suit to stand revived, which

which rule or order shall be served on the adverse clerk, and unless the representatives of such deceased person, or others who may become interested by the death of such person shall within eighty days after such service as aforesaid, appear and put in their answer or signify their disclaimer of the suit, and the matters in controversy therein, the plaintiff or plaintiffs may cause their appearance to be entered, and in such case the answer of the deceased person shall be deemed and taken as and for the answer of such representatives, or other person or persons interested by the death of such person.

And further, That in case any plaintiff or plaintiffs in any such suit now depending, or hereafter to be brought, wherein the cause of action shall not survive as aforesaid, shall happen to die pending such suit, the lawful representative or representatives of such deceased plaintiff or plaintiffs, or any other person or persons interested by the death of such Plaintiff or Plaintiffs, shall and may upon affidavit thereof by him or them, or any other person or persons, and on motion made in open court, be, by the rule or order of the court, inserted as a complainant or complainants in the said suit, and be permitted to make such amendment in the bill or bills of complaint, as his, her or their title or interest therein may require; to which amendment or amendments the defendant or defendants shall be compellable, by rule or order of the said court, to answer, proceed to issue, and examination of witnesses, and production of proofs, and all other proceedings shall be had thereon as in ordinary cases; and in case such person or persons shall not, in eighty days after the death or deaths of such plaintiff or plaintiffs, cause himself, herself or themselves to be entered as plaintiff or plaintiffs as aforesaid, in the room of such deceased plaintiff or plaintiffs, that then and in every such case the surviving plaintiff or plaintiffs may insert the representative or representatives of such deceased plaintiff or plaintiffs, or other person or persons interested by his, her or their death, as defendant or defendants in such suit, and proceed in the manner herein before directed, in cases where the lawful representative or representatives of a deceased defendant or defendants may be made party or parties.

XVIII. *And be it further enacted by the authority aforesaid,* That no *subpœna*, or any process for appearance do issue out of the court of chancery, until after the bill is filed with the proper officer in the said court, except in cases of bills for injunctions to stay waste, or to stay suits at law commenced; and that no injunction shall be granted or issued in any case until the bill is filed as aforesaid. *And further,* That no copy, abstract or tenor of any bill in equity do go with the *dedimus* or commission for taking the defendant's answer.

Subpœna or process for appearance not to issue out of Chancery until the bill be filed; except in certain cases.

XIX. *And be it further enacted by the authority aforesaid,* That if in any suit which hath been or shall hereafter be commenced in the Court of Chancery of this State, any defendant or defendants, against whom any *subpœna* or other process shall issue, shall not cause his, her or their appearance to be entered upon such process, within such time and in such manner as according to the rules of the said Court the same ought to have been entered, in case such process had been duly served; or if any such defendant or defendants after service of any *subpœna* or other process so issued out of the said Court, shall neglect or refuse to enter, his, her or their appearance, within such time and in such manner as directed by the rules of the said Court, and an affidavit or affidavits shall be made to the satisfaction of the said court, that the said defendant or defendants is or are beyond sea, or out of this State, or otherwise absent himself, herself or themselves, in this State, then and in any such case, the said court shall and may make an order directing and appointing such defendant or defendants to appear at a certain day therein to be mentioned; and a copy of such order shall within twenty days be inserted in one or more of the public news-papers printed in this State, and be published therein eight weeks successively, at least once in each of the said weeks, and if the defendant or defendants do not appear within the time limited by the said order, or within such further time as the court shall appoint, then, on proof made to the satisfaction of the court, that such order was duly published as aforesaid, the said court may order the plaintiffs bill to be taken *pro confesso*, and make such decree thereupon as shall be thought just; and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal

If in any suit commenced in Chancery, the defendant does not enter his appearance according to the rules of the court, and affidavit is made of his being beyond sea, &c. what remedy the plaintiff shall have.

personal estate and effects of the defendant or defendants so absent as aforesaid, or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff; and the said Court of Chancery may likewise order such plaintiff or plaintiffs to be paid and satisfied his, her or their demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree; such plaintiff or plaintiffs first giving sufficient security in such sum as the court shall think proper to abide such order touching the restitution of such estate or effects as the said court shall think proper to make concerning the same, upon the defendant or defendants appearance to defend such suit, and paying such costs to the plaintiff or plaintiffs as the court shall order; but if the plaintiff or plaintiffs shall refuse or neglect to give such security as aforesaid, then the said estate or effects shall remain under the direction of the said court until the appearance of the defendant or defendants and his, her or their paying such costs to the plaintiff or plaintiffs, as the said court shall think reasonable, or until such order shall be made therein as the court shall think just.

If any decree is made against a person so absent, he may within a certain time after, and on certain conditions, be permitted to answer as if he had appeared at first.

XX. *Provided always, and it is hereby further enacted by the authority aforesaid,* That if any decree shall be made, in pursuance hereof, against any person or persons so absent as aforesaid, and such person or persons, his, her or their heirs, devisees, executors or administrators (as the case may require) shall within one year after notice in writing being given to him, her or them, of such decree, or if no such notice is given, then within seven years after the making of such decree, appear in court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the court shall think reasonable in that behalf, the person or persons so petitioning may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution may be had thereon, as if the absent defendant or defendants had originally appeared, or as if no former decree had been in the same cause. *Provided nevertheless,*

And if he does not appear within such certain time, then the decree shall stand absolutely confirmed.

XXI. *And be it further enacted by the authority aforesaid,* That if any person or persons against whom such decree shall be made, his, her or their heirs, devisees, executors or administrators shall not, within seven years next after the making of such decree, appear and petition to have the cause reheard, and pay down or give security for payment of such costs as the court shall think reasonable in that behalf, such decree made as aforesaid shall stand absolutely confirmed against the said person or persons against whom such decree shall be made, his, her and their heirs executors and administrators, and against all persons claiming, or to claim, by from or under him, her them, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such seven years it shall and may be lawful for the court to make such further order as shall be just and reasonable, according to the circumstances of the case.

If a defendant is brought into the Court of Chancery by habeas corpus or other process, and refuses to enter his appearance; court to appoint a clerk to enter it for him.

XXII. *And be it further enacted by the authority aforesaid,* That if any defendant or defendants shall be brought into the said Court of Chancery, by any writ of *Habeas Corpus*, or other process issuing out of the said court, and shall refuse or neglect to enter his, her or their appearance, according to the rules of the said court, or to appoint a clerk in court to act on his, her or their behalf respectively, the said court may appoint a clerk in court to enter an appearance for such defendant or defendants respectively, and such proceedings may thereupon be had in the cause, as if the party had actually appeared.

Where persons are jointly indebted, they shall be separately answerable to their creditors, and the mode of process where they cannot all be taken.

XXIII. *And be it further enacted by the authority aforesaid,* That all persons who now are or hereafter shall be jointly indebted to any other person or persons whomsoever for or upon any joint contract, obligation, matter or thing whatsoever, for which remedy could or might be had at law against such debtors in case all were or could be taken by process issued out of any court in this State, shall be answerable to their creditors separately for such debts, that is to say, such creditor or creditors shall and may issue process against such joint debtors in the manner now in use; and in case any or either of such joint debtors shall be taken and brought into court by virtue of such process, he, she or they so taken and brought into court, shall answer to the plaintiff or plaintiffs; and in case the judgment shall pass for the plaintiff or plaintiffs, he, she or they shall have

have, his, her or their judgment and execution against him, her or them so brought into court, and against the other joint debtor or debtors named in the process, in the same manner as if they had been all taken, and brought into court by virtue of such process: But it shall not be lawful to issue or execute any such execution against the body, or against any lands or goods the sole property of any person not brought into court.

And whereas a practice hath lately been introduced of inserting in bonds, bills, covenants and other contracts in writing, a clause or power or warrant, to confess a judgment thereon, whereby many persons, being ignorant of the efficacy and consequence of such a clause, power or warrant have suffered great loss. *For remedy whereof.*

XXIV. *Be it further enacted by the authority aforesaid,* That no judgment shall hereafter be entered upon any bond, bill, covenant or other contract in writing to be made after the first day of January next, upon the confession of any attorney, by virtue or in consequence of any warrant, power or authority whatsoever, contained, written or printed in the same instrument, paper or parchment, with the same bond, bill, covenant or contract. *And further,* That every attorney who shall confess any judgment in any case whatsoever, shall at the time of making such confession produce his warrant for making the same to the Court or Judge before whom he makes the same confession, and the same warrant shall then be filed with the proper officer of the court in which the judgment shall be entered. *And moreover,* no judgment shall hereafter be entered upon any confession taken out of court, before any or either of the Judges of the Courts of Common Pleas or Mayors Courts, or either of them, and if any judgment shall be so entered, the same shall be void and holden for none. But all such judgments heretofore *bona fide* entered, and which shall be *bona fide* entered before the first day of May next, and all executions thereon, shall be and hereby are confirmed, although the same judgments were or shall be entered upon confession before one only, or more of the Judges out of Court.

Recital.

No judgment to be entered on any bond, on the confession of an attorney by virtue of a power contained in the same bond.

When any attorney confesses judgment, he shall produce his warrant for the same.

No judgment hereafter to be entered on a confession out of court, before a Judge of the Court of Common Pleas.

XXV. *And be it further enacted by the authority aforesaid,* That the Supreme Court shall and may by one or more commission or commissioners under the Seal of the said Supreme Court, from time to time, as need shall require, empower such and so many person and persons, as they shall think fit and necessary in all and every the several counties within this State, to take and receive all and every such affidavit and affidavits as any person or persons shall be willing and desirous to make before any or either of the persons so empowered, in or concerning any matter, cause or thing depending, or hereafter to be depending, or any wise concerning any of the proceedings to be had in the said Supreme Court, or in the Court of Exchequer;—which said affidavits, taken as aforesaid, shall be filed with the proper officer of the court in which they are to be used, and then be read and made use of in the said court to all intents and purposes, as other affidavits taken before any or either of the Justices of the Supreme Court now are or may be: And that all and every affidavit and affidavits taken as aforesaid, shall be of the same force as affidavits taken in the said Supreme Court or Court of Exchequer now are; and that every person forswearing himself or herself in any such affidavit or affidavits shall incur and be liable unto the same penalties as if such affidavit or affidavits had been made and taken in open Court. And further, that for the taking of every such affidavit, the person so empowered, and taking the same, shall take and receive for so doing, one shilling and no more.

Supreme Court to commission under their seal, persons in the different counties to take affidavits concerning any proceedings to be had in said court, or Court of Exchequer.

Which affidavits to be filed with the proper officer of the court in which they are to be used.

And to have the same effect as if taken in the said courts.

Fee allowed for taking such affidavit.

XXVI. *And be it further enacted by the authority aforesaid,* That the several judges of the courts of common pleas within the respective cities and counties of this State, shall be and hereby are fully authorized and empowered, in each of the said cities and counties, where such judges are or shall be commissioned, to take and receive every such recognizance or recognizances of bail, as any person or persons, is, are or shall be desirous to make before him, in any action or suit depending or hereafter to be depending in the Supreme Court, or Court of Exchequer; and in such manner and form, and by such recognizance or bail-piece as the respective justices of the supreme court usually take the same; which said recognizance or recognizances, or bail-piece or bail-pieces

Recognizances or bail pieces, how & by whom to be taken in the several counties.

Time allowed for, excepting against sureties in such recognizances.

Justices of Supreme Court accepting such recognizance, to receive half the fees allowed; and the person taking the recognizance the other half.

Where any defendant is imprisoned for want of sureties, when the plaintiff may declare against him.

445. W. M. c. 21. s. 2.

To which declaration the prisoner shall appear and plead, or judgment be given against him as if he had refused to plead.

Such declaration shall alledge in whose custody the prisoner is.

2.

Sheriff, in ten days after the receipt of any copy of a declaration to deliver the same to the defendant named therein.

Recital.

so taken as aforesaid, shall be forthwith transmitted, by the defendant in the suit or action, to one of the justices of the supreme court; and the said justice to whom such recognizance or bail-piece shall be so transmitted shall accept and receive the same: And every such recognizance of bail or bail-piece so taken and transmitted as aforesaid, shall be of the like effect as if the same were taken before any justice or justices of the said supreme court: and the cognizor or cognizers of such bail or bails, shall not be compelled to appear in person before such justice or justices, or in the said supreme court or court of exchequer: And the said judges of the courts of common pleas shall examine the sureties to such recognizances of bail or bail-pieces as aforesaid, when and so often as they shall be thereunto respectively requested, by any person or persons concerned, interested in, or affected by such bail, recognizance or surety thereon, concerning the value of such surety's estate and personal circumstances. *Provided always,* That all plaintiffs, their council or attornies, shall have the same time allowed for excepting against the sureties to be given in the manner aforesaid, as is allowed when such recognizance or bail is taken before one of the Justices of the Supreme Court: *And further,* That such Justice of the Supreme Court as shall accept and receive any such recognizance or bail piece, so to him transmitted, shall receive one half such fees as he is or shall be entitled to by law for taking bail, and upon receipt thereof, shall file such recognizance of bail or bail-piece, and in all things proceed thereon as if the said recognizance of bail or bail-piece had been taken by him; and the Judge of the Court of Common Pleas, who shall take such recognizance of bail or bail-piece, shall be allowed and receive for taking the same, one half of such fee, as is or shall be allowed by law to the Justices of the Supreme Court for taking bail, when the same is taken before them or any of them, and no more.

XXVII. *And be it further enacted by the authority aforesaid,* That, if now, or at any time hereafter, any defendant or defendants be taken or charged in custody, at the suit of any person or persons, upon any writ or writs, or process out of any Court of Record, and imprisoned or detained in prison for want of sureties, for his, her or their appearance to the same, the plaintiff or plaintiffs in such writ or writs, or process, shall and may by virtue of this act, before the end of the next term after such writ or process shall be returnable, declare against such prisoner or prisoners, in the respective court or courts, out of which the writ or writs or process issued, whereupon the prisoner or prisoners shall have been, or may be taken and imprisoned or charged in custody, and shall or may cause a true copy thereof to be delivered to such prisoner or prisoners, or to the Sheriff or other officer, goaler or keeper of the prison or goal, in whose custody such prisoner or prisoners shall be and remain; to which declaration or declarations, the said prisoner or prisoners shall appear and plead; and if such prisoner or prisoners shall not appear and plead to the same, the plaintiff or plaintiffs in such cases shall have judgment in such manner as if the prisoner or prisoners had appeared in the said respective courts and refused to answer or plead to such declaration. *And further,* That in all declarations against any prisoner or prisoners detained in prison by virtue of any writ or process issued or to be issued out of any Court of Record, it shall be alledged in custody of what Sheriff or officer such prisoner or prisoners shall be at the time of such declaration, by virtue of the process of the said court, at the suit of the plaintiff or plaintiffs. *And moreover,* That every such sheriff, officer, goaler or keeper of any prison or goal, upon whom any such copy of any such declaration shall be served, shall within ten days thereafter, deliver the same to the defendant or defendants therein named, with a note of the time of the service thereof, upon such sheriff or officer as aforesaid; and if any such sheriff, officer, goaler or keeper of any prison or goal, to whom any such copy of any declaration shall be delivered as aforesaid shall neglect to deliver the same to such defendant or defendants, such sheriff, officer, goaler or keeper of any prison or goal, shall be liable and answerable to such defendant or defendants for all damages occasioned by such neglect.

And whereas equal justice ought to be administered as well to the poor, as to the rich, and for the relief of the poor, who be not of ability to sue according to law for the redress of injuries and wrongs to them done, as well concerning their persons, and their inheritance as other causes.

XXVIII. *Be*

XXVIII. *Be it further enacted by the authority aforesaid,* That every such poor person or persons, who have or hereafter shall have cause of action or suit against any person or persons in this State, shall have, by the discretion of the Chancellor for the time being, writ or writs original or writs of *subpoena*, according to the nature of their causes, without paying any thing for the seals or for writing of the same writs; and if the suit is to be prosecuted in the Court of Chancery, the Chancellor shall assign to the same poor person or persons, Council learned in the law, and Solicitors, and all other officers requisite and necessary for the prosecuting and speeding of the same suits, who shall give their Council and do their duty without taking any reward, for their Council, help and business in the same suit or suits: And if such action or actions, suit or suits, is or are to be commenced or prosecuted in any other court, the Judges or Justices of such court shall, by their discretion, assign to such poor person or persons Council learned in the law and attornies, and all other officers requisite and necessary for the prosecuting and speeding of the same actions and suits, who shall give their council and do their duty without taking any reward for their council, help and business in the same actions and suits. And in case any such plaintiff or plaintiffs shall be non-suited, or a verdict or judgment be given against him, her or them, in any such action or suit, he, she, or they shall not be compelled to pay any costs to the defendant or defendants in any such action or suit.

Persons having cause of action against others, and being too poor to prosecute, to be assisted at the discretion of the court.

11. H. 7. c. 12.

And whereas persons trespassing upon lands often defend against suits brought for the same, under feigned pretences, until judgment passes for the plaintiff, and then abscond or depart out of the State, to the great injury of the plaintiff or true proprietors, for want of bail given by the defendant at the commencement of the suit: *For remedy whereof,*

Reciting that injuries happen to plaintiffs for want of bail in actions for trespass upon lands.

XXIX. *Be it further enacted by the authority aforesaid,* That the plaintiff or plaintiffs shall in all such actions of trespass be entitled to special bail, and that an *ac etiam* or proper clause for that purpose may be accordingly inserted in the first process, and that the plaintiff or plaintiffs shall have all the advantages, as well thereupon as upon the bail bonds that may be taken on the arrest, as in assumption and other actions where the defendant is held to bail, and that both parties shall be subject to such discretionary rules and orders of court respecting such suits in trespass, and on the bail bonds, as are used in other cases.

Plaintiff declared to be entitled to bail in all such actions, and a clause for that purpose, to be inserted in the first process.

XXX. *And be it further enacted by the authority aforesaid,* That in all actions of trespass *quare clausum fregit*, already brought, or hereafter to be brought, wherein the defendant or defendants shall disclaim in his, her or their plea to make any title or claim to the land in which the trespass is by the declaration supposed to be done and the trespass be by negligence or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass before the action brought, whereupon or upon some of them the plaintiff or plaintiffs shall be enforced to join issue; and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be non-suited, the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

Mode of process in actions of trespass *quare clausum fregit*.

21. Jac. 1. c. 16. s. 3

XXXI. *And be it further enacted by the authority aforesaid,* That no dilatory plea shall hereafter be received in any Court of Record, unless the party offering such plea do, by affidavit, prove the truth thereof, or shew some probable matter to the Court to induce them to believe that the fact of such dilatory plea is true.

No dilatory plea to be received, unless the truth thereof be proved.

4 Ann. c. 16.

XXXII. *And be it further enacted by the authority aforesaid,* That all grants and conveyances made since the eighth day of March, in the year of our Lord one thousand seven hundred and seventy-three, or hereafter to be made by fine or otherwise, of any manors, messuages, lands, tenements or rents, or of the reversion or remainder of any messuages, lands or tenements, shall be good and effectual to all intents and purposes, without any attornment of the tenants of any such manors, messuages, lands or tenements, or of the lands out of which such rents shall be issuing, or of the particular tenants upon whose particular estates any such reversions or remainders were, shall or may be expectant or depending, as if their attornment had been had and

All conveyances made since a certain day by fines of manors, messuages, &c. to be good without any attornment of the tenants.

Proviso in favor
of the tenant,

and made. *Provided nevertheless*, That no such tenant shall be prejudiced or damaged by payment of any rent to any such grantor or cognizor, or by breach of any condition for non-payment of rent, before notice given to him of such grant, by the conusee or grantee.

Certain warran-
ties made since the
8th of March 1773,
declared to be void.

XXXIII. *And be it further enacted by the authority aforesaid*, That all warranties which have been made since the said eighth day of March in the year of our Lord one thousand seven hundred and seventy-three, or which shall hereafter be made, by any tenant for life, of any lands, tenements or hereditaments, the same descending or coming to any person in reversion or remainder, shall be void and of none effect; and likewise all collateral warranties which have been made since the said eighth day of March in the year of our Lord one thousand seven hundred and seventy-three, or which shall hereafter be made of any lands, tenements or hereditaments, by any ancestor who had or has no estate of inheritance in possession in the same at the time of making such warranty shall be void against his heirs.

A disseisor's dy-
ing seized, not to
take away the entry
of any person hav-
ing lawful title of
entry.

XXXIV. *And be it further enacted by the authority aforesaid*, That the dying seized of any disseisor, of or in any manors, lands, tenements or other hereditaments, having no right or title therein, shall not be taken or deemed any such descent in the law, as to toll or take away the entry of any such person or persons, or their heirs who at the time of the same descent, had, or shall have, good and lawful title of entry into the said manors, lands, tenements or hereditaments, except that such disseisor hath had the peaceable possession of such manors, lands, tenements or hereditaments, whereof he hath died or shall die seized, by the space of five years next after the disseison by him committed, without entry or continual claim, by or of such person or persons as had or shall have lawful title thereunto.

The foreman of
a grand jury impow-
ered to administer
oaths to witnesses.

XXXV. *And be it further enacted by the authority aforesaid*, That every person who shall hereafter be appointed foreman of a grand jury, shall be from the time of his being appointed till his discharge, empowered and authorized to administer the usual oath to such witnesses as shall come to give evidence to the grand jury whereof he is foreman.

Law concerning
attaints on untrue
verdicts abolished.

XXXVI. *And be it further enacted by the authority aforesaid*, That the law concerning attaints upon untrue verdicts shall be and hereby is abolished.

Statutes of Great-
Britain to be no
longer considered as
laws of this State.

XXXVII. *And be it further enacted by the authority aforesaid*, That from and after the first day of May next none of the statutes of England or of Great-Britain shall operate or be considered as laws of this State.

C H A P. XLVII.

An ACT for appointing Commissioners to hold Treaties with the Indians, within this State. Passed the 1st of March, 1788,

The Governor &
other persons ap-
pointed Commis-
sioners to treat with
the Indians, either
separately, or with
Commissioners to be
appointed by the
State of Massachu-
setts.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the person administering the government of this State for the time being, and William Floyd, Ezra L'Homedieu, John Lawrence, Richard Varick, Samuel Jones, Egbert Benson and Peter Gansevoort, junior, be, and are hereby appointed commissioners, with power either jointly with commissioners to be appointed by the Commonwealth of Massachusetts, for the purpose, or on the part of this State separately, to hold treaties and conferences from time to time, as the person administering the government of this State for the time being, shall deem the occasion to require, with the Indians residing within this State, and every or any tribe or nation of the said Indians, touching such matters, and to take such measures for preserving the friendship of the said Indians, and also to enter into such engagements and contracts with the said Indians, and to purchase or procure from them such lands and other hereditaments, on such terms, and in such

Their powers.

such form, as the said Commissioners hereby appointed shall deem fit, for the welfare of this State; and with further power, to enquire touching all leases, or other purchases of, or contracts for the sale of lands, suggested to have been obtained or made without the authority or consent of the Legislature, from or with the said Indians, or any of them, by or to any person or persons; and to make report thereof from time to time to the Legislature; and to that end to examine persons on oath touching the premises so to be enquired of; and by writing under their hands, to require persons to appear before them, at such time and place as shall be specified in such writing, and to give evidence touching the said premises, on pain of one hundred pounds. And every person being duly summoned, who shall refuse to appear, or appearing, shall refuse to give evidence, shall forfeit the said sum of one hundred pounds, to the people of this State; and with further power to make and enter into agreements and stipulations, with Commissioners to be authorized by the Commonwealth of Massachusetts for that purpose, touching the means to be used by the said Commonwealth and this State jointly, for preventing intrusions on the lands reciprocally ceded by this State and the said Commonwealth to each other, and for preserving to the said Commonwealth and this State their respective rights to the said lands. And for the more orderly holding and conducting such treaties,

And to provide means for preventing intrusions on the lands reciprocally ceded by this State and Massachusetts, to each other.

II. *Be it further enacted by the authority aforesaid,* That it shall be lawful for the person administering the government of this State for the time being, in his discretion, to order out any proportion of the militia from any part of this State, to march to the place or places where the said treaties and conferences may from time to time be held, and such occasion to be deemed an emergency intended in the second section of the act entitled "An Act to regulate the militia," passed the 4th day of April, one thousand seven hundred and eighty-six: And the detachments so from time to time to be ordered out, to receive the same pay and rations, and to be subject to the same rules and regulations as is provided in the said section of the said act. And further, that it shall be lawful for the said Commissioners, by writing, under their hands, to require any and every person, not being an actual resident, within one mile of the place where the said treaties may from time to time be held, to depart from such place, within such reasonable time as in such writing shall be specified and to retire to such convenient distance from the said place as the said Commissioners shall deem proper; and every person who being so required to depart, shall not depart, or departing, shall, during the holding such treaty return again to such place without the licence of the Commissioners, shall be deemed to have offended against the people of this State, and shall, on conviction, be punished by fine or imprisonment, in the discretion of the court. *And further,* That it shall be lawful for the said Commissioners, by warrant under their hands, to be directed to the Sheriff of the county, or to such other person as they shall appoint to execute the same, to cause every person so refusing to depart, or who having departed, shall return again without such licence as aforesaid, to be apprehended, and to be conveyed to the goal of the city and county of Albany, and there to remain in close custody, without bail or mainprize, for such time as the said Commissioners shall deem it probable the said treaty will be in holding, and to be specified in the said warrant; but not to exceed one month from the date of such warrant; and the keeper of the said goal is hereby required to receive every such person so committed, and safely keep him in close custody in his goal accordingly.

Governor authorized to order out the militia, to the places where such treaties may be held, and the militia to be paid for their services.

Commissioners authorized to order any persons to depart from the places where such treaties may be held, and in case of refusal to punish them.

Commissioners authorized to commit persons so refusing, by warrant under their hands, to the goal of Albany, there to be kept not more than one month.

III. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the person administering the government of this State for the time being, from time to time, by warrant under his hand, to draw from the treasury of this State, such sum and sums of money as the said Commissioners shall deem necessary to be expended and applied in the execution of the trust and powers hereby granted, in such manner as they shall deem proper and beneficial for the State: And the Treasurer of this State is hereby required, out of any monies he may have in the treasury, forthwith to answer such warrants, any other appropriations of the said monies, not being appropriations to private persons in discharge of contracts notwithstanding. And every person to be appointed or intrusted by the said Commissioners, with the expenditure of any of the said

Governor by warrant authorized to draw from the treasury such sums as the commissioners shall deem necessary.

And the treasurer directed to pay the same.

Such monies to be accounted for by the persons entrusted with the expenditure thereof.

monies, shall be responsible to the people of this State for the respective expenditures, and shall account with the Auditor of this State accordingly.

Commissioners appointed by this act, how long to continue in office.

IV. *And be it further enacted by the authority aforesaid*, That the Commissioners hereby nominated and appointed, shall continue in office until thirty days after a quorum of both Houses shall be assembled at the first meeting of the Legislature, after the first Monday in July next, and no longer; and that any four of the said Commissioners, of which the person administering the government for the time being, always to be one, shall be a quorum, from time to time to execute the trusts and powers hereby granted.

CHAP. XLVIII.

An ACT to lay a Duty of Excise on strong Liquors, and for the better regulating of Inns and Taverns. Passed the 1st of March, 1788.

Governor and Council of Appointment to appoint a committee of excise for the city & county of New-York.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the person administering the government of this State for the time being, by and with the advice and consent of the Council of Appointment from time to time, to constitute and appoint such person in the City of New-York, as they shall think proper to be the Commissioner for collecting the duty of excise, of and from the several retailers of strong or spirituous liquors in the city and county of New-York.

Who shall be the commissioners of excise in the several other cities & counties in this State.

II. *And be it further enacted by the authority aforesaid*, That the following persons shall be the Commissioners for collecting the duty of excise of and from the several retailers of strong and spirituous liquors within the several other cities and counties in this State; that is to say, in and for the city of Albany, the Mayor of the said city, for the time being; and in and for the city of Hudson, the Mayor, Recorder, Aldermen, and Commonalty of the said city; and in and for the several towns and places in the respective counties in this State, the supervisor of, and any two Justices of the Peace resident within the same respective towns or places; or in case there shall not be two Justices, or in case of the absence of the Justices residing in any such town or place, then such neighbouring Justice or Justices, as the supervisor of such town or place shall notify, and associate with him for that purpose. *Provided*, That no permit shall be granted, except in either of the said cities of Albany or Hudson, unless three Commissioners shall be present at the granting thereof.

Proviso.

Commissioners of excise annually to grant licences for retailing strong liquors to persons applying for same.

III. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners of Excise appointed or to be appointed by virtue of this act, annually by writing under their respective hands and seals, to grant to the several persons, who shall reside in the respective cities, towns or places, for which they are or shall be appointed a Commissioner or Commissioners as aforesaid, who shall apply for the same permits to retail strong or spirituous liquors under five gallons; which said respective permits shall continue in force from the time of granting the same, until the first day of March next ensuing the date of such permit and no longer.

Commissioner of excise for the city & county of New-York to determine what each person shall pay for such licence as a duty of excise.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioner of Excise to be appointed in the city and county of New-York by virtue of this act, to determine and ascertain the sum which each respective person applying for a permit as aforesaid, shall pay for the same, not being less than *forty shillings*, nor more than *twenty pounds*, as a duty of excise, which sum shall be paid to him by the person applying before the permit shall be issued as aforesaid.

Commissioners of excise in the other counties, to determine what each

V. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Commissioners of Excise appointed in the several other cities, towns and places in this State, by virtue of this act, to determine and ascertain the sum which

which each respective person, in their respective cities, towns and places, applying for a permit as aforesaid, shall pay for the same, not being less than *forty shillings*, nor more than *twelve pounds*, as a duty of excise; which together with the sum of *six shillings*, as a fee to the respective Commissioners for granting such permit, shall be paid to him or them by the person applying for a permit as aforesaid, before the permit shall be issued as aforesaid. *And further*, The said Commissioners are hereby respectively required to keep an account of the persons to whom permits shall be granted, and of the sums by each of the said persons paid for a permit, and to file the same with the clerk of such city, town or place, on or before the first day of March in every year; and shall from time to time without delay pay the monies so to be by them received for the duty of excise, to the overseers of the poor of the respective cities, towns and places, for which they are Commissioners as aforesaid, to be applied to the relief of the poor thereof.

person shall pay for such licence, which with a fee for such licence shall be paid before the same issues.

Commissioners to keep accounts of the permits granted and the sum paid for each, which shall be filed with the clerks of the counties, and the monies received paid to the overseers of the poor.

VI. *And be it further enacted by the authority aforesaid*, That instead of the fees herein before allowed, the Commissioner of Excise for the city and county of New-York, for the time being, shall be entitled for his service to a salary, at and after the rate of *sixty pounds* per annum; which it shall be lawful for him to retain out of the monies which shall come into his hands from the duty of excise aforesaid; and the residue thereof, he shall from time to time, and without delay, pay to the Treasurer or Chamberlain of the said city, for the time being, to be applied and disposed of (except as to *eight hundred pounds* for the time herein after mentioned) for and towards the payment of the contingent charges of the said city, in such manner as the Mayor, Aldermen and Commonalty of the said city in Common Council convened, by warrant under the hand of the Mayor or Recorder of the said city, presiding in such Common Council shall from time to time direct and appoint. *And further*, That the said Commissioner shall keep an account of the persons to whom permits shall be granted in the said city and county, and of the sums by each of the said persons paid for a permit, and file the same with the Treasurer or Chamberlain of the said city for the time being, on or before the last day of February in every year.

Commissioner of excise for New-York to retain in his hands 60l. as a salary, instead of taking fees for permits.

And the residue to pay to the chamberlain of the city, to be applied as herein directed.

Said commissioner to keep an account of the permits and of the sums paid for each, and file them with the chamberlain.

VII. *And be it further enacted by the authority aforesaid*, That the Treasurer or Chamberlain of the said city of New-York, shall, out of the monies to arise from the excise to be raised in the said city and county of New-York, on or before the first Tuesday in February in every year, for and during the term of four years, from and after the first day of February in the year one thousand seven hundred and eighty-eight, pay to the Treasurer for the time being, of the society of the hospital in the city of New-York in America, at and after the rate of *eight hundred pounds* and no more, for the better support of the hospital erected in the said city, for poor and indigent persons.

Chamberlain of New-York to pay 800l. yearly for four years, out of the excise, for the use of the hospital.

VIII. *And be it further enacted by the authority aforesaid*, That the Commissioners appointed or to be appointed by virtue of this act, to grant permits to retail strong or spirituous liquors, shall not grant permits to any person or persons to retail strong or spirituous liquors for the purpose of keeping an inn or tavern, unless it shall appear to the said Commissioners that an inn or tavern at the place, at which such permit is applied for is necessary for the accommodation of travellers, and that the person applying for such permit is of good character. And that in every such permit to be granted for the purpose of keeping an inn or tavern, shall be expressed, that it appears necessary to the Commissioners, that a public inn or tavern be kept at such place, and that the person to whom such permit is granted, is of good moral character as aforesaid.

Commissioners not to grant permits to retail strong liquors unless it appears necessary for the accommodation of travellers.

IX. *And be it further enacted by the authority aforesaid*, That no person shall sell by retail any strong or spirituous liquors, to be drank in his or her house, out-house, yard or garden, unless such person shall appear before a Justice of the Peace of the county in which he or she shall reside, and enter into recognizance to the people of the State of New-York, in the sum of *fifty pounds*, conditioned that he or she will not during the time that he or she shall keep an inn or tavern, keep a disorderly inn or tavern, or suffer or permit any cock-fighting, gaming or playing with cards or dice, or keep

All persons retailing strong liquors to enter into recognizance in the sum of 50l. not to keep a disorderly house.

Which recogni-
zance is to be lodg-
ed with the clerks
of the cities or

keep any billiard-table, or other gaming table, or shuffle-board, within the inn or ta-
vern by him or her to be kept, or within any out-house, yard or garden belonging
thereunto; which recognizances so to be taken shall be lodged by the person or persons
before whom the same shall be taken with the clerks of the respective cities or coun-
ties where the same shall be taken; and if any person shall be convicted of an offence
against this act, it shall be lawful for the Courts of General Sessions of the Peace in the
respective cities and counties in this State to suppress the permit and licence of such
respective offenders. But that no person who shall be permitted or licenced to retail
strong liquors, not to be drank in his or her house, but carried elsewhere, shall be obli-
ged to enter into recognizance as aforesaid, any thing in this act to the contrary not-
withstanding.

Every person sel-
ling strong liquor
without a permit or
without entering in-
to such recognizance
to forfeit ten pound
for each offence.

Provido no person
to be prosecuted for
selling metheglin,
&c. which is not
drank in his house.

Licences in New-
York, Albany and
Hudson to be grant-
ed agreeable to
charter.

No kind of ga-
ming to be permit-
ted in any inn or
tavern, and the
courts to take cog-
nizance of offences
against this act.

What kind of ac-
commodations inn-
keepers shall be o-
bliged to have.

Recital.

Certain innhold-
ers may be excepted
from having such
accommodations.

Innholders selling
liquors to servants to
lose their debt, and
forfeit forty shillings

X. *And be it further enacted by the authority aforesaid,* That if any person shall
sell by retail, any strong or spirituous liquors, without having such permit as aforesaid,
or if any person shall sell any strong or spirituous liquors to be drank in his or her house,
out-house, yard or garden, without having entered into such recognizance as aforesaid,
every person who shall be guilty of either of the offences aforesaid, shall, for each offence,
forfeit the sum of *ten pounds*. *Provided always,* That no person or persons shall be
subject to be sued or prosecuted by virtue of this act, for selling metheglin, currant wine,
cherry wine or cyder, to be by him, her or them made, and which shall not be drank
in his, her or their house, out-house, yard or garden. *Provided also,*

XI. *And be it further enacted by the authority aforesaid,* That all licences to re-
tail strong or spirituous liquors within the cities of New-York, Albany or Hudson,
shall be granted in the manner directed and prescribed in and by the charters granted to
the said cities respectively; and the recognizances to be entered into by retailers, shall be
taken before the Mayor for the time being, of each respective city, or in case of his
sickness or absence before the Recorder thereof.

And the more effectually to prevent every species of gaming, or incitement thereunto
in public inns or taverns;

XII. *Be it further enacted by the authority aforesaid,* That it shall be deemed
an offence against the people of this State, for any person who shall keep a public inn
or tavern, to permit or suffer any cock-fighting, playing with cards or dice, or to keep
any billiard-table, or other gaming table, or shuffle-board within his or her house, or
within any out-house, yard or garden belonging thereto, or therein to permit any kind
of gaming by lot or chance: And that as well the Courts of Oyer and Terminer and
Gaol Delivery, as the Courts of General Sessions of the Peace in the several counties
within this State, shall have cognizance of offences against this act, and shall and may
punish offenders convicted thereof, by fine and imprisonment, or either, at the discre-
tion of the court in which any such conviction shall be had.

XIII. *And be it further enacted by the authority aforesaid,* That every keeper
of any public inn or tavern in this State, except in the city of New-York, shall keep
in his house, at least two spare beds for guests, with good and sufficient sheeting and
covering for such beds respectively, and provide and keep good and sufficient stabling
and provender, of hay in the winter, and hay or pasturage in the summer, and grain
for four horses or other cattle, more than his or her own stock, for the accommodation
of travellers, upon pain of forfeiting for every neglect or default, of having either of
the articles in this clause beforementioned, the sum of *forty shillings*.

And whereas in some parts of this State, so little resort is had to some inns or ta-
averns, as would make the last mentioned regulations burthensome, and which inns or
taverns are nevertheless of public utility: *Therefore,*

XIV. *Be it further enacted by the authority aforesaid,* That it shall be in the dis-
cretion of the Commissioners or the major part of them, in any of the towns of this
State, by writing for that purpose under their hands and seals, to exempt one or more
inn-holder or tavern-keeper in the said towns respectively from keeping such spare
beds and stabling, provender and forage, as is herein before directed.

XV. *And be it further enacted by the authority aforesaid,* That if any innholder,
or tavern-keeper, shall sell any strong or spirituous liquors to any apprentice, servant,
or

or slave, knowing or having reason to suspect or believe him or her to be such, without the consent of his or her master or mistress, such innholder or tavernkeeper, shall forfeit and lose every debt which such apprentice, servant or slave shall or may contract for any such liquor; and also for every offence, forfeit the sum of *forty shillings*, to be recovered with costs of suit, by the master or mistress of such apprentice, servant or slave. *And further*, That the permit and licence of every such innholder or tavernkeeper, shall be and hereby is declared void from the time of such conviction; and such innholder or tavernkeeper shall be and is hereby declared to be incapable of receiving any further or other permit or licence for holding any public inn or tavern, for the space of three years from the time of such conviction.

And also lose his permit.

XVI. *And be it further enacted by the authority aforesaid*, That if any innholder or tavernkeeper, or any other person or persons, shall take or receive, directly or indirectly, from any such apprentice, servant or slave, any clothing, or any other goods, chattles, wares or merchandize, in payment for any such strong or spirituous liquors, or in pawn or pledge, to secure any such payment, and thereof be convicted, by the oath of any one credible witness, he, she or they so offending, besides the payment of the penalty and forfeiture of the debt as aforesaid, shall, within three days after such conviction restore to the master or mistress of such apprentice, servant or slave, all such clothing or other goods, chattles, wares or merchandize, which he, she or they shall have so taken or received, from any such apprentice, servant or slave, or shall forfeit and pay unto the master or mistress of such apprentice, servant or slave, double the value of all such clothing, or other goods, chattles, wares or merchandize, which he, she or they shall have so taken or received as aforesaid, to be recovered by such master or mistress, his or her executors or administrators, with costs of suit, in any court having cognizance thereof.

Innholders receiving any kind of goods from servants for liquors, besides the penalties aforesaid, to restore the goods and double their value to the master or mistress, with costs of suit.

XVII. *And be it further enacted by the authority aforesaid*, That if any innholder or tavernkeeper, within this State, shall trust or credit any person or persons, other than travellers, more than, or above the sum of *ten shillings*, lawful money of this State, for any sort of strong or spirituous liquors, or other tavern expences; he, she or they so trusting or crediting any person or persons as aforesaid, shall lose the debt and be forever disabled from suing for or recovering the same or any part thereof: And if any innholder or tavernkeeper, shall sue for any such debt above the sum of *ten shillings*, contrary to the true intent and meaning of this act, the person or persons sued, shall and may plead this act in bar; and if the plaintiff in such suit shall become non-suit, or a verdict or judgment shall be given for the defendant, every such plaintiff shall pay double costs.

Innholders trusting any person except travellers, more than ten shillings for liquors, &c. to forfeit the debt.

XVIII. *And be it further enacted by the authority aforesaid*, That if any innholder or tavernkeeper, shall take or get from any person or persons, trusted as aforesaid, any note, bill, bond or other security, for any sum above *ten shillings*, for any strong or spirituous liquors, by him or her, sold or drank, in, or at his or her house, under pretence that it is for victuals, pipes, tobacco, or any other thing whereby to evade this act; every such note, bill, bond or other security shall be void, and the defendant or defendants may plead this act in bar, to any action or suit to be brought thereon. *And further*, That every person who shall be convicted of an offence against this clause of this act, shall forfeit double the sum mentioned in and intended to be secured, by such note, bill, bond or other security; to be recovered by action of debt, bill, plaint or information, with costs of suit, in any court in this State, having cognizance thereof.

Any tavernkeeper taking a note, or other security for such debt as aforesaid, every such note to be void.

XIX. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this act contained, shall be construed or taken to debar any innholder or tavernkeeper from taking, receiving or recovering any sum or sums of money which shall or may become due, and owing to him or her, from any person or persons who shall or may be lodgers in his or her house, or from travellers not residing in such city or town; any thing in this act contained, to the contrary notwithstanding.

This act not to prevent innkeepers from recovering any debt due them from travellers, or persons who may be lodgers in their houses.

XX. *And be it further enacted by the authority aforesaid*, That every innholder or tavernkeeper, shall, within thirty days after obtaining his or her permit, put up and fix a proper sign on, or adjacent to the front of his or her house, with his or her name thereon

Innkeepers to put up a sign before their houses.

thereon and keep such sign up during the time he or she shall keep an inn or tavern, under the penalty of *ten shillings* for every month's neglect thereof.

Penalties and forfeitures imposed by this act how to be sued for, recovered and applied.

XXI. *And be it further enacted by the authority aforesaid,* That all and every the penalties and forfeitures, imposed in and by this act, shall and may be recovered, with costs of suit, in any court within this State, having cognizance thereof, by any person or persons who will sue and prosecute for the same to effect, unless in this act otherwise provided; and the one moiety of the said penalties and forfeitures, not in and by this act otherwise appropriated, shall when recovered be paid to the overseers of the poor of the city or town in which each respective offence shall happen, for the use of the poor thereof; and the other moiety to the person or persons who shall sue for the same as aforesaid.

All laws heretofore passed for regulating inns and taverns repealed.

XXII. *And be it further enacted by the authority aforesaid,* That all laws of the late Colony of New-York, and of this State, heretofore passed for the regulating of inns and taverns, and for retailing of spirituous liquors within this State, be and the same are hereby severally repealed.

C H A P. XLIX.

An A C T to empower the Justices of the Peace residing in that Part of the Township of Schenectady therein mentioned, to establish and regulate a Night-Watch, and for other purposes therein mentioned. Passed the 1st of March, 1788.

Preamble.

WHEREAS the establishing a night-watch, and appointing fire-men to manage the fire-engine in that part of the township of Schenectady which lays to the southward of the Mohawk river, and not more than three quarters of a mile from the Dutch Church, will tend to the safety and preservation of the inhabitants thereof. *Therefore,*

Justices of the Peace in the town of Schenectady to establish & regulate a night watch.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the Justices of the Peace, or the major part of them, for the time being, living or dwelling in that part of the township of Schenectady which lays to the southward of the Mohawk river, and not more than three quarters of a mile distant from the Dutch Church, to meet together with all convenient speed after the publication of this act, and being so met, they are hereby required and directed to order, establish and regulate a night-watch, which watch shall consist of six men and an officer for each night, out of the inhabitants of that part of the said township herein before described, who shall and hereby are required and directed in their turns to keep watch and guard in such manner and at such times and places as the said Justices shall order and direct.

Said Justices to establish such rules, and impose such fines for the same, as they may think proper.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Justices or the major part of them, to make, establish and ordain such rules, orders, ordinances and regulations, for the government, conduct, duty and behaviour, of the said watch and watchmen, and to impose and establish such reasonable fines, penalties and forfeitures upon them, or any of them, for default or neglect of the duties and services enjoined or required by such orders or ordinances as to the said Justices shall from time to time seem meet and convenient. *Provided always,* That no greater fine, penalty or forfeiture shall be levied for any one offence than *six shillings* on an officer and *four shillings* on every person or watchman.

And to elect and appoint such number of persons as are willing to accept the same, and they may think proper, to have the care of the fire-engines in said town.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Justices of the Peace, or the major part of them, and they are hereby required, with all convenient speed, to elect, nominate and appoint, a sufficient number of men, willing to accept, not exceeding twenty in number, out of the inhabitants residing in that part of the said township above mentioned, to have the care

care, management, working and use, of the fire-engine or engines belonging to the said township, and the other tools and instruments for extinguishing of fires that may happen therein; who are hereby required and enjoined, in case of fires happening, to manage, work and use the said engine or engines, and the other tools and instruments for the extinguishing of fires.

IV. *And be it further enacted by the authority aforesaid,* That the said Justices of the Peace, or the major part of them, are hereby authorized and impowered to remove and displace all or any of the firemen so as aforesaid, to be elected, nominated and appointed, when, and as often as they shall think fit, and others, instead of such as shall be removed, to elect, nominate and appoint, from time to time, as they the said Justices shall see convenient.

And to displace such fire-men, and appoint others in their stead.

V. *And be it further enacted by the authority aforesaid,* That such persons as shall be elected and appointed firemen, and each and every of them, during the time such person or persons shall remain firemen and no longer, shall and hereby are declared to be freed and exempted from serving in the office of constable and overseer of the highways, and of and from serving as jurors, and of and from serving in the militia, except in cases of invasion or other imminent danger.

Such firemen exempted from militia duty.

VI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Justices or the major part of them, to make, establish and ordain such rules, orders, ordinances and regulations for the government, conduct, duty and behaviour of the persons from time to time, to be by them elected, nominated and appointed firemen by virtue of this act, as to them shall appear necessary and proper.

Justices to establish rules for the government of such firemen.

VII. *And be it further enacted by the authority aforesaid,* That the assessors for the district of Schenectady, shall annually during the continuance of this act, when they meet to assess the proportion of the said district of the contingent charges of the city and county of Albany, also assess a further sum not exceeding *twenty pounds*, to be raised, levied and collected of and from the inhabitants residing in that part of the township herein before described: And the Collector of the said township is hereby required, as soon as he shall have collected the same, to pay the same (after deducting therefrom, *nine-pence* in the pound for his trouble) unto the said Justices or such other person as they shall appoint to receive the same, to be by the said Justices applied in paying a person by them to be appointed to take of the watch-house and supplying the same with fire wood and candles.

Assessors to assess annually on the inhabitants of said town, a sum not exceeding twenty pounds, for the use of the watch-house.

VIII. *And be it further enacted by the authority aforesaid,* That this act shall be in force from the publication thereof until the first day of May which will be in the year of our Lord one thousand eight hundred.

This act, how long to continue in force.

CHAP. L.

An ACT to Regulate the Exportation of Flax-seed and Lumber. Passed the 1st of March 1788.

WHEREAS flax-seed and lumber have become articles of great exportation from this State; and it is necessary that their credit at foreign markets be established.

Preamble.

Therefore,

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That no flax-seed shall be exported from this State to Ireland or Scotland but what shall be well cleaned and put in casks of two sizes only; one of which shall be of the following dimensions: viz. Two feet nine inches long, and twenty-four inches diameter in each head, and made as nearly straight as possible; which shall contain seven bushels, and shall be made of oak, and the heads of pine or oak, with three hoops on each head, and three hoops

No flaxseed to be exported but in casks of certain dimensions and descriptions, and certain marks to be branded thereon.

hoops on each bilge, and nailed with at least three nails in each head hoop and three nails in each quarter hoop, with a good lining hoop on each head: The other size shall be made of the like materials, and shall contain three and an half bushels, with the same number of hoops, and shall be nailed in the same manner; and on each cask shall be branded the name of the city or county where cleaned, with the initial letter of the christian and the surname at full length of the owner or person who cleaned the same.

Any person shipping flaxseed for exportation, not cleaned and branded as aforesaid, as well as the master of the ship subject to a penalty.

II. *And be it further enacted by the authority aforesaid,* That if any person or persons shall ship on board any ship or vessel, for exportation to Ireland or Scotland, any flax-seed which hath not been cleaned, marked and branded, as herein before directed, or in any other casks than such as are before mentioned, such person so offending shall forfeit and pay for every cask so shipped on board, the sum of *ten shillings*, and the master or commander of every ship or vessel who shall receive on board any ship or vessel for exportation as aforesaid, any flax-seed not cleaned, marked and branded as aforesaid, or in any other cask than such as are before mentioned, shall forfeit and pay the sum of *five shillings*, for each and every cask so taken on board.

Timber, boards, &c. to be inspected by inspectors, and marked before they are exported.

And none shall be so marked but such as are merchantable.

III. *And be it further enacted by the authority aforesaid,* That all timber, boards, plank of every kind, scantling or shingles, before they are exported out of this State, shall be viewed and examined, by some one of the inspectors to be appointed by virtue of this act; and the said inspectors shall on each board, plank or piece of timber, mark, with a marking iron, the initial letters of his christian and surname, with the number of feet in each board, plank or piece of timber; and the said inspectors shall not mark any but what they shall deem merchantable and good: And no board shall be deemed merchantable but what is at least six inches wide clear of sap, and shall be of the actual thickness sold for. That all shingles commonly called short shingles, packed in bundles, shall be of only three sizes; the length of one size shall be eighteen inches long, and at least four inches broad; another size shall be twenty-four inches long, and at least five inches broad; the other size twenty-seven inches long, and at least five and an half inches broad, and shall be of a proper thickness, packed up in bundles, containing each two hundred and fifty; and the said inspector shall examine all such shingles in bundles, and none shall be deemed merchantable other than such as shall be of the beforementioned dimensions; and the said inspector shall take out of every bundle all unmerchantable shingles, and replace the same with merchantable ones; and shall brand on each bundle, the initial letter of his christian name, and his surname at full length, with the figures 250.

Of what sizes short shingles may be, & what number shall be packed in a bundle.

Which bundles shall be marked with certain marks.

Governor and Council of Appointment to appoint inspectors of lumber.

IV. *And be it further enacted by the authority aforesaid,* That the person administering the government of this State for the time being, by and with the advice and consent of the Council of Appointment, shall appoint one inspector of lumber for the city and county of New-York (which said inspector is hereby authorized and required to appoint such number of deputies under him as shall be necessary, for whom he shall be accountable; which deputies are hereby fully empowered to act as deputy officers for carrying this act into execution) one inspector for the city of Albany, one inspector for the city of Hudson; one inspector for the landing at Kinderhook, and as many more in other parts of the State as may from time to time be necessary.

Inspectors to take an oath, & the form of it.

V. *And be it further enacted by the authority aforesaid,* That the said inspectors and their deputies, before they enter upon the execution of their offices, shall take the following oath before some person authorized to administer the same, viz.—
“ I — do solemnly swear, that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office and duty of an inspector of lumber, according to the true intent and meaning of the laws of this State relative to the same.”

Inspectors allowance for inspection.

VI. *And be it further enacted by the authority aforesaid,* That the said inspectors shall be entitled to receive for inspecting all boards, plank and scantling, at the rate of *three shillings* per thousand feet, superficial measure; and for square timber at the rate of *fourteen pence* per ton, consisting of forty cubical feet; and for shingles in bundles at the rate of *eighteen pence* per thousand; the one half to be paid by the buyer, and the other half by the feller.

VII. *And*

VII. *And be it further enacted by the authority aforesaid,* That if any person shall ship on board any ship or vessel for exportation out of this State, any boards, plank, scantling, timber or shingles, but what has been inspected by one of the inspectors appointed by virtue of this act, he shall forfeit and pay, for every thousand feet so shipped without inspection, the sum of *twenty shillings*; and for every thousand shingles the sum of *ten shillings*; and the master of any ship or vessel who shall receive on board his vessel any boards, plank, timber or shingles but what has been inspected by one of the inspectors, shall forfeit and pay for every thousand feet so taken on board, the sum of *ten shillings*; and for every thousand shingles the sum of *five shillings*; all which forfeitures mentioned in this act, may be recovered with costs, in any court having cognizance thereof, by any person who will sue for the same, by action of debt, bill, plaint or information; the one half thereof to be for the use of the person so suing, and the other half for the use of the people of this State.

Penalty inflicted for exporting lumber without inspection.

Penalties inflicted by this act how to be sued for, recovered and applied.

VIII. *And be it further enacted by the authority aforesaid,* That this act shall be in force from and after the first day of October next.

CHAP. LI.

An ACT supplementary to and to amend the Act entitled, "An Act to vest the Estate of Richard Maitland, deceased in Trustees for the payment of his Debts." Passed the 1st of March 1788.

WHEREAS William Cockburn one of the trustees named in the act entitled, "An act to vest the estate of Richard Maitland, deceased, in trustees for the payment of his debts" hath prayed the Legislature to be discharged from such trust; Therefore,

Preamble.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said William Cockburn be and he hereby is discharged; and that Richard Harrison be and he hereby is appointed a trustee of the estate of the said Richard Maitland, deceased, for the purposes in the said recited act mentioned, in the place and stead of the said William Cockburn.

William Cockburn discharged from his trust, and Richard Harrison appointed in his stead.

II. *And be it further enacted by the authority aforesaid,* That Daniel M'Cormick and Richard Varick, in the said recited act named, together with the said Richard Harrison, or any two of them, and the survivors and survivor of them, and the heirs, executors and administrators of such survivor, and every of them, shall be, and hereby are authorized and required to do, execute and perform, all and every the powers and duties in and by the said act vested in, and required from the said Daniel M'Cormick, William Cockburn and Richard Varick.

The two former Trustees & Richard Harrison fully empowered to act.

III. *And be it further enacted by the authority aforesaid,* That the first dividend of the estate of the said Richard Maitland, shall be made in the manner in and by the third clause of the said recited act mentioned, on or before the first day of May in the year one thousand seven hundred and ninety-one; and the second dividend in the fourth clause of the said recited act mentioned; on or before the first day of May, in the year one thousand seven hundred and ninety-two; any thing in the said recited act, to the contrary notwithstanding.

Dividends of the said estate when and how to be made.

CHAP. LII.

C H A P. LII.

An ACT for the Relief of Benjamin Micheau, late Treasurer of the County of Richmond, Passed the 1st of March 1788.

Preamble, reciting that the late treasurer of Richmond has been robbed of public money.

Supervisors of Richmond to enquire into the circumstances of said robbery.

And in their discretion to order the raising by tax a sum to replace the same.

Money how and when to be raised and paid.

This act not to be drawn into precedent.

WHEREAS Benjamin Micheau, late Treasurer of the county of Richmond, hath presented his petition to the Legislature, suggesting that he was robbed on the fourth day of June now last past, of the sum of *two hundred and ninety eight pounds*, raised for State Taxes then in his hands, and hath prayed relief in the premises. *Therefore,*

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the supervisors of the said county of Richmond for the time being shall enquire into the suggestion of the said petition, and for that purpose they are hereby authorized to examine any person or persons on oath touching the said matters, and if upon such enquiry it shall appear to a majority of the said supervisors that the said robbery was committed; that the said Benjamin Micheau had used due means to secure the said money against theft, and that he had not unreasonably detained the said money from the Treasury of the State, then it shall be lawful for a majority of the said supervisors, and they are hereby required to order the raising of a sum (to be raised, levied and collected in like manner as the contingent charges of the county are levied and collected) equal to such sum as they shall find that the said Benjamin Micheau was robbed of as aforesaid of the monies by him received for State Taxes.

II. And be it further enacted by the authority aforesaid, That the money to be raised by virtue of this act shall be paid unto the county treasurer for the time being on or before the first day of November next, who is hereby directed to pay the same unto the said Benjamin Micheau, late Treasurer as aforesaid, in order that he may account with the Treasurer of this State for the same on or before the first day of December next; and the said State Treasurer is hereby required to suspend all prosecutions against the said late Treasurer of the county of Richmond for the monies aforesaid, until the said first day of December next.

And whereas the legislature have been moved by reasons arising from the special circumstances of this case to make such provision therein as is in this act contained: *Therefore,*

III. Be it further enacted, and it is hereby declared, That this act or any of the provisions therein contained shall not be drawn into precedent.

C H A P. LIII.

An ACT to Regulate the Exportation of Butter and Hogs-lard. Passed the 1st of March, 1788.

Preamble.

Butter or hogs-lard intended for exportation to be in casks of certain dimensions & description, and inspected by the Inspectors.

WHEREAS butter and hogs-lard have become articles of great exportation from this State, and it is necessary the exportation thereof be regulated: *Therefore,*

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That from and after the first day of October next, no butter or hogs-lard shall be exported from this State, but what shall be in new casks, made of seasoned white oak timber, not exceeding in size ten gallons, with at least ten hoops on each cask, and nailed with three nails on each head, and three pegs in each quarter hoop: That before any butter or hogs-lard shall be laden on board any ship or other vessel, it shall be inspected by one of the inspectors to be appointed by virtue of this act, which said inspectors are hereby directed to inspect and examine each cask of butter or hogs-lard so to be laden on board, and shall bore the head of each cask, and pierce such butter or hogs-lard through with an instrument contrived for that purpose, and examine, try and determine whether the butter or lard is sweet and merchantable.

II. And

II. *And be it further enacted by the authority aforesaid,* That the said inspectors shall not inspect any butter or hogs-lard but what is in casks, made agreeable to the preceeding clause, and upon each of which casks the tare thereof shall be marked with a marking iron, allowing one pound more than the cask actually weighs, as an allowance for the damp which the cask may contract.

Butter in casks only to be inspected and when inspected to mark the tare on the casks.

III. *And be it further enacted by the authority aforesaid,* That when any of the said inspectors shall have reason to suspect a fraud in the tare of any cask of butter or hogs-lard, it shall be lawful, and he is hereby directed, to unpack, weigh and mark thereon, the true tare thereof, and every person exposing to sale such butter or hogs-lard, where the tare thereof is marked less than the true tare, shall forfeit and pay for every such cask the sum of five shillings.

What the inspector or shall do when he suspects a fraud in the tare.

IV. *And be it further enacted by the authority aforesaid,* That the said inspectors shall brand on the head of each cask of butter or hogs-lard, the initial letter of his christian name, and his surname at full length, with the word butter or hogs-lard as the case may be, and with the name of the city or county, where inspected; and the said inspectors shall be entitled to receive for inspecting each cask of butter or hogs-lard the sum of two pence, the one half to be paid by the buyer, and the other half by the seller.

Inspector to mark the casks with his name, name of the County. &c.

V. *And be it further enacted by the authority aforesaid,* That the person administering the government of this State for the time being, by and with the advice and consent of the Council of Appointment, shall appoint one inspector of butter and hogs-lard for the city and county of New-York, and as many more in other parts of this State, as they may from time to time think necessary.

Governor and Council to appoint inspectors.

VI. *And be it further enacted by the authority aforesaid,* That the said inspectors to be appointed by virtue of this act, shall before they enter upon the execution of their office, take the following oath, before some person authorised to administer the same, viz: "I ——— do solemnly swear that I will faithfully, honestly and impartially, do and execute the office of inspector of butter and hogs-lard, according to the true intent and meaning of the law of this State relative thereto."

Inspectors to take an oath, and the form thereof.

VII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall ship on board any ship or other vessel, for exportation out of this State, any butter or hogs-lard, other than such as has been inspected by one of the inspectors to be appointed by virtue of this act, within ten days before the shipping of the same on board, he, she or they shall forfeit and pay, for every cask so shipped on board, the sum of ten shillings: And every master of any ship or other vessel who shall take on board his ship or vessel any butter or hogs-lard, but such as has been inspected as before directed, shall forfeit and pay for every cask so taken on board, the sum of five shillings.

Penalty inflicted for exporting butter or hogs-lard contrary to this act.

VIII. *And be it further enacted by the authority aforesaid,* That all the fines and forfeitures mentioned in this act may be recovered with costs, in any court having cognizance thereof, by any person who will sue for the same, by action of debt, bill, plaint or information; the one half thereof to be for the use of the person so suing, and the other half for the use of the people of this State.

Penalties inflicted by this act how to be sued for, recovered and applied.

CHAP. LIV.

An ACT granting a Bounty on Hemp to be raised within this State. Passed the 3d of March, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That for every hundred weight of good merchantable hemp, which shall be raised within this State, and brought to the city of New-York, on or before the first day of June, one

A bounty of \$/to be paid by the treasurer for every hundred of hemp brought to the city of New-York, on the pro-

duction of a certificate from the inspector.

Inspector's allowance.

Governor and Council of Appointment to appoint two inspectors of hemp, in the city of New-York.

Oath to be taken by them, and form thereof.

Before any person shall have hemp inspected he shall prove to the inspector in what county the hemp was raised and when.

one thousand seven hundred and ninety-two, shall be allowed and paid by the treasurer of this State, out of any monies which may be in the treasury unappropriated, a bounty of eight shillings per hundred, to any person or persons who shall bring such hemp to the city of New-York, and, and produce a certificate of the weight thereof, and that it is good and merchantable, from one of the inspectors to be appointed by virtue of this act, to inspect all hemp on which a bounty is to be allowed, which said inspectors shall receive for their trouble, from the person who shall employ them, at the rate of six pence per hundred weight, and no more.

II. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the person administering the government of this State for the time being, by and with the advice and consent of the Council of Appointment, from time to time to nominate and appoint two or more inspectors of hemp in the city of New-York; and that each of the inspectors so appointed before he enters upon the execution of his office, shall before the Mayor, Recorder or one of the Aldermen of the said city, take and subscribe an oath in the words following, viz: "I ——— do solemnly swear that I will faithfully discharge the duty of an inspector of hemp, for the State of New-York, and that I will not give a certificate to any person or persons for a greater quantity than I actually inspect, and for none but such as is merchantable;" a copy of which oath sworn to and subscribed by the said inspectors respectively shall be filed with the Treasurer of this State.

III. *And be it further enacted by the authority aforesaid,* That the person who shall have any hemp inspected by virtue of this act, shall before he receives such certificate as aforesaid, prove to the satisfaction of the inspector that the quantity of hemp on his account inspected, was raised in the county of ——— or counties of ——— in the State of New-York, in the year ———; and also that no bounty has yet been paid for the same, or any part thereof, to the best of his knowledge or belief; and that he will not receive, or cause to be received, or attempt to receive any greater or other bounty for the same, than is allowed by this act; and shall also produce to the said inspector an affidavit or affidavits, made before any Justice of the Peace in this State from the person or persons who raised the said hemp, that the same was raised in the county of ——— or counties of ——— in the State of New-York, in the year ——— and that no bounty has yet been paid for the same, or any part thereof.

CHAP. LV.

An ACT to Regulate the repacking of Beef and Pork for Exportation, Passed the 7th of March 1788.

Preamble.

WHEREAS it is necessary that great care be taken, in the repacking of beef and pork, two of the staple articles of this State: And whereas it is represented that if proper places were appointed for the inspection of the same, and the number of inspectors fixed by law, it would prevent abuses: *Therefore,*

Governor and Council of Appointment to appoint repackers of beef and pork.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That it shall and may be lawful for the person administering the government of this State for the time being, by and with the advice and consent of the Council of Appointment, to appoint two or more Repackers of beef and pork, for the city and county of New-York; one or more for the city of Albany; one or more for the city of Hudson, and as many in any other part of this State as shall from time to time be necessary.

Inspector to provide good and sufficient stores.

II. *And be it further enacted by the authority aforesaid,* That the inspectors to be appointed by virtue of this act, shall provide themselves with good and sufficient stores, capable of receiving and storing such beef and pork, as may be brought to them for inspection; and the inspectors for the city and county of New-York shall provide

provide themselves with as many stores as may be necessary: Provided such stores be on some of the docks or wharfs of the said city, and that one of such stores shall be at or near the Albany pier, and another at or near Burling-slip; and no such inspector shall be allowed anything for storage of the same beef and pork, if the owner shall remove the same within three days after the same shall be repacked.

No allowance for storage.

III. *And be it further enacted by the authority aforesaid,* That all barrels in which any beef or pork shall be repacked, shall be made of good white oak staves and heading, with twelve hoops on each barrel, and shall contain not less than thirty one gallons, nor more than thirty-two gallons, and be as nearly straight as possible, and sufficient to hold pickle; and that all half barrels shall be made of the like materials and contain one half as many gallons as the whole barrels. And in order to encourage the raising of large hogs and making of fat beef,

Size and description of barrels for repacking beef and pork in.

IV. *Be it further enacted by the authority aforesaid,* That from and after the first day of October next, the inspectors so to be appointed, shall examine and sort all beef and pork to be by them repacked, and such as is well fattened, shall be repacked and branded on the head, first quality; and such as is inferior, second quality; and that each barrel of beef shall contain two hundred and twenty pounds of beef; the first quality of which shall not have more than two hocks or shins, one half of a neck, and shall have at least one round in each barrel, and be otherwise well fattened. The second quality shall not have more than three hocks or shins, and one half neck in each barrel, and be otherwise merchantable beef. And that each barrel of pork shall contain two hundred and ten pounds of pork well fattened; the first quality of which shall not have in each barrel more than three shoulders without the legs, which shall be cut up to the knees, and not to exceed two heads, which heads shall have the ears and snouts cut off, and shall not exceed in weight thirty pounds: The second quality shall not have in each barrel more than five shoulders without the legs, and not more than two heads, which shall not exceed thirty pounds in weight, and shall be otherwise merchantable pork; and that all half barrels both of beef and pork shall contain one half the quantity of whole barrels, and be in every respect as to quality the same as whole barrels; and in every barrel of beef or pork, there shall be at least one half bushel of good Lisbon or hard salt, and in every half barrel one peck.

Inspectors to sort all beef and pork by them repacked into first and second quality.

Contents of a barrel of the first quality.

Contents of a barrel of the second quality.

V. *And be it further enacted by the authority aforesaid,* That no beef or pork shall be repacked, until the same has been laid in salt a sufficient time before such repacking; and all casks of beef and pork so repacked shall be branded with the initial letter of the packers christian name, with his surname at full length, and the name of the place where repacked and with the word beef or pork, and the words first or second quality, as the case may be; and every repacker of beef and pork shall carefully secure his marking irons, so as to put it out of the power of his servants or others to obtain and make use of the same, contrary to the true intent and meaning of this act.

No beef or pork to be repacked that has not been well salted, and when repacked, to be branded with certain marks.

Every repacker to secure his marking irons carefully.

VI. *And be it further enacted by the authority aforesaid,* That every of the repackers to be appointed by virtue of this act, shall before he enters upon the execution of his office take the following oath, before any Justice of the Peace, viz: "I—do solemnly swear that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office and duty of an inspector and examiner of beef and pork according to the true intent and meaning of the laws of this State relative to the same, and that I will not directly or indirectly brand or suffer to be branded any casks of beef or pork, but what shall be found and good."

Repacker to take an oath and the form thereof,

VII. *And be it further enacted by the authority aforesaid,* That all beef and pork repacked between the first day of April and the first day of October in every year, shall at the time of repacking the same, be pickled with a good strong pickle, made of fresh water and of salt, not finer than Lisbon salt; and that each barrel, to prevent the pickle from leaking shall be well trimmed, and nailed with at least three nails on each head, and with at least three pegs on each quarter.

All beef and pork repacked at certain seasons to be pickled with a strong pickle.

VIII. *Provided always, and be it further enacted by the authority aforesaid,* That it shall and may be lawful for any owner of any beef or pork, to have the same

Beef or pork may be repacked in any yard or vessel, but not in the streets.

Allowance to the repackers for repacking beef or pork.

repacked in any store, yard or vessel, by either of the repackers so to be appointed as aforesaid: But no beef or pork shall be repacked in any street or on any wharf, and that the repackers shall have and receive from the owner of such beef and pork, for repacking the same in the store by them provided for that purpose, at the rate of *one shilling* for each barrel, and *eight pence* for each half barrel; and if repacked in any other store, yard or vessel, *one shilling and three-pence* for each barrel, and *nine-pence* for each half barrel; and whether repacked in the store provided by the repacker, or in the yard, or store, or vessel, for each hoop wanting, and put on by such repacker, *two-pence*; and for flagging, nailing, pegging and pickling each barrel, *nine-pence*, and each half barrel *six-pence*; the owner finding or paying for the salt.

Repackers for negligence subject to a forfeiture.

IX. *And be it further enacted by the authority aforesaid*, That if any repacker of beef or pork, shall neglect or delay to repack any beef or pork, when thereunto required by the owner or owners thereof, for the space of forty-eight hours, every such repacker shall, for each neglect, pay to such owner or owners, the sum of *forty shillings*.

Penalty for mixing or shifting any beef or pork after it has been repacked.

X. *And be it further enacted by the authority aforesaid*, That if any person or persons shall at any time hereafter intermix, take out or shift any beef or pork that has been repacked and branded as aforesaid, every person so taking out, intermixing, and fraudulently shifting such beef or pork, and being thereof convicted, shall forfeit and pay double the value of the beef or pork so taken out, intermixed or shifted.

Repackers for offences against this act to forfeit 50l.

XI. *And be it further enacted by the authority aforesaid*, That for every offence which the said repackers shall make or commit against the true intent and meaning of this act, and be thereof convicted, he or they so offending, shall forfeit *fifty pounds*, and be rendered incapable of serving again in the office.

Penalty on owners of beef and pork and masters of vessels, who export any without inspection.

XII. *And be it further enacted by the authority aforesaid*, That if any person or persons shall export, or ship for exportation out of this State, any beef or pork not being inspected, pickled and branded by one of the sworn inspectors as aforesaid, every such exporter, and the master of every vessel having on board such uninspected beef or pork, shall, upon conviction, respectively forfeit and pay the sums following:—For every barrel of beef or pork so exported, or shipped for exportation, as aforesaid; that is to say, the owner thereof shall forfeit and pay the sum of *forty shillings*; and the master of every vessel having the same on board, the sum of *ten shillings*. *And further*, That the said inspectors, and every of them, shall have full power and authority by virtue of this act, on suspicion that any beef or pork not inspected as aforesaid, shall be shipped in any vessel for exportation, to apply to any Justice of the Peace, and on oath to assign to such Justice the causes of such suspicion; and if the said Justice shall think the said suspicion well grounded, he shall issue his warrant to the said inspector or inspectors, to enter on board any vessel whatever, loading or laden in this State, either in the whole or in part, and to search for and make discovery of any beef or pork shipping or shipped on board any such vessel for exportation out of this State; and if any of the said inspectors shall discover any beef or pork not repacked, branded and pickled, as directed in and by this act, on board of any such vessel, such inspector shall apply to such Justice of the peace, who is hereby authorised and required to issue his warrant, directed to some peace officer or officers, commanding him or them to enter on board every such vessel having on board such uninspected beef or pork, and cause the same to be relanded and delivered to the owner or owners thereof, upon his or their paying the expence of such search and relanding. And if any person or persons shall obstruct or hinder any inspector from making such search as aforesaid, or any peace officer in relanding such beef or pork, every person so offending shall forfeit and pay the sum of *one hundred pounds*.

Inspectors not to inspect any beef or pork out of the counties for which they are appointed, under a penalty of 20 pounds.

XIII. *And be it further enacted by the authority aforesaid*, That no inspector of beef and pork, to be appointed by virtue of this act, shall inspect or brand any casks of beef or pork out of the city or county for which he shall be appointed an inspector, upon pain of forfeiting the sum of *twenty pounds*. And if any person other than the said inspectors, shall brand any casks of beef or pork in the manner directed by this act, every

every person so offending, shall forfeit the sum of five pounds for every cask so branded.

XIV. *And be it further enacted by the authority aforesaid,* That upon the head of every barrel or cask of beef or pork, which shall be shipped from any port in this State, to any port either within or without the same, the shipper thereof shall, before or at the time such beef or pork is repacked, cause the initial letter of his christian name and his surname at full length to be branded.

Shippers name to be branded on the casks at the time of repacking or before.

XV. *And be it further enacted by the authority aforesaid,* That every the forfeitures and penalties aforesaid, shall and may be recovered, with costs of suit, in any court having cognizance thereof, by any person or persons who will sue and prosecute for the same to effect; one moiety of which said forfeitures and penalties, when recovered, shall be paid to the overseers of the poor of the town or place where the offence shall be committed, for the use of the poor thereof, and the other moiety thereof to such person or persons as will sue for the same as aforesaid.

Penalties and forfeitures incurred by this act, how to be sued for, recovered and applied.

XVI. *And be it further enacted by the authority aforesaid,* That all acts of the late Colony of New-York, respecting the repacking of beef and pork be, and they are from and after the said first day of October next, hereby repealed.

All former laws on this subject repealed.

C H A P. LVI.

An ACT to Regulate the culling of Staves and Heading. Passed the 7th of March 1788.

WHEREAS, staves and heading have become articles of considerable exportation from this State, and it is necessary that great care be taken to preserve their reputation in foreign markets. *Therefore,*

Preamble.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That from and after the first day of July next, no staves or heading shall be exported out of this State, to any foreign market, but such as shall be culled by the cullers hereafter to be appointed for that purpose. That all butt staves shall be made of good white-oak timber, and shall be of the following dimensions. The long butts shall be five feet six inches long, the short butts four feet six inches long, and both at least five inches broad when dressed, clear of sap, two inches thick on the thinnest edge, and not more than two and an half inches thick in any place, and shall be regularly split with the grain of the wood, and free from twist, and to be otherwise good and sufficient. That all pipe staves shall be made of good white-oak timber, and shall be four feet six inches long, and shall work three and an half inches broad when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than six worm holes, and be otherwise good and sufficient. That all white-oak hoghead staves shall be made of good timber, and shall be three feet six inches long, and shall work three and half inches broad when dressed clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than four worm holes, and be otherwise good and sufficient. That all barrel staves shall be two feet eight inches long, and shall work three and an half inches broad, when dressed clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and not more than four worm holes, and otherwise good and sufficient. That all heading shall be made of good white-oak timber, and shall be two feet eight inches long, and shall not be less than six inches broad, clear of sap, three fifths of which shall be fit for middle pieces, and shall not be less than three fourths of an inch thick on the thin edge, and be otherwise good and sufficient. That all red oak hoghead staves shall be three feet six inches long, four inches broad, including sap, and shall be three quarters of an inch thick on the thin edge.

No staves or heading to be exported without culling.

Size and quality of different kinds of staves and heading.

II. *And be it further enacted by the authority aforesaid,* That the Governor, or person

Governor and Council of appoint

ment to appoint
cullers.

person administering the government of this State, for the time being, by and with the advice and consent of the Council of Appointment, shall and may appoint eight or more cullers for the city and county of New-York, four or more cullers for the city and county of Albany, two or more cullers for the city of Hudson, and as many in the other counties in this State, as shall appear from time to time to be necessary.

Cullers to take
an oath, and the
form thereof.

III. *And be it further enacted by the authority aforesaid,* That each of the cullers to be appointed by virtue of this act, shall take the following oath before some person or persons authorized to administer the same, viz, " I——do solemnly swear, that I will well, faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office of a culler and examiner of staves and heading, according to the true intent and meaning of the laws of this State relative thereto.

Cullers allowance
for culling.

IV. *And be it further enacted by the authority aforesaid,* That the respective cullers shall be entitled to receive for culling every thousand pipe staves, the sum of *four shillings*, for every thousand hoghead staves and heading the sum of *three shillings*, for every thousand barrel staves the sum of *two shillings*, and for every thousand long butt staves the sum of *ten shillings*, and for every thousand short butt staves the sum of *eight shillings*, and no more, computing twelve hundred staves or heading to a thousand, one half to be paid by the buyer, the other half by the seller, and for all such staves or heading as are culled out and not merchantable, the culler shall be entitled to receive of the proprietor thereof, the one half the price of the culling merchantable staves or heading.

Disputes arising
between buyers and
sellers, how to be
settled.

V. *And be it further enacted by the authority aforesaid,* That where any disputes shall arise between the buyer and seller of staves and heading, respecting the culling of the staves by the culler, who was employed for the purpose, such dispute shall be submitted to two other cullers of staves or heading, one to be chosen by the buyer and the other by the seller, and their determination shall be conclusive.

Penalty for ship-
ping any staves or
heading without
being culled.

VI. *And be it further enacted by the authority aforesaid,* That if any person or persons shall ship on board any vessel for exportation out of this State, any staves or heading, to any foreign market, but such as have been viewed and examined by some one of the cullers appointed by virtue of this act, in the city, county or town where such staves or heading were exported from, the master of such vessel shall forfeit and pay the sum of *twenty shillings* for every thousand so taken on board, and the owner or proprietor thereof the sum of *forty shillings* for every thousand so shipped on board for exportation; to be recovered with costs of suit by any person who will prosecute for the same, in any court having cognizance thereof.

Penalty for ship-
ping staves or head-
ing which have been
condemned.

VII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall ship on board any ship or vessel for exportation to any foreign market any staves or heading that have been condemned, or shall mix the same with any staves or heading that have been culled, every such person upon due proof thereof shall forfeit and pay the sum of *forty shillings* for every thousand condemned staves or heading so shipped on board or mixed, to be recovered in manner aforesaid.

Cullers empow-
ered to search for
staves or heading
which they suspect
are intended to be
exported contrary
to this act.

VIII. *And be it further enacted by the authority aforesaid,* That the said cullers and every of them, shall have full power and authority by virtue of this act, and on suspicion that any staves or heading, which have not been culled, or which have been condemned as aforesaid, shall be shipped in any ship or other vessel for exportation, to apply to any Justice of the Peace, and on oath to assign to such Justice, the causes of such suspicion, and if the said Justice shall think the said suspicion well grounded, he shall issue his warrant to the said culler or cullers, to enter on board any ship or vessel whatsoever within any harbour, port or river within the county of which he is a culler, to search for and make discovery of any staves or heading, shipped or shipping on board any such vessel for exportation, immediately from thence to any foreign market; and if the said culler on such search discover any staves or heading shipped on board any such vessel that have not been culled by one of the cullers appointed by virtue of this act, or shall find on board any staves that have been culled out or condemned, such culler shall apply to one of the nearest Justices of the Peace, who is hereby required

to

to issue his warrant directed to some peace officer or officers, commanding him or them to enter on board such vessel having on board such condemned or uninspected staves or heading, and cause the same to be relanded and delivered to the owner or owners thereof upon his or their paying the expence of such search and relanding.

IX. *And be it further enacted by the authority aforesaid,* That one moiety of the forfeitures to be recovered by virtue of this act, shall be paid to the overseers of the poor in the town or place where the offence was committed for the use of the poor thereof, and the other moiety thereof to such person or persons as will sue for the same as aforesaid. Forfeitures incurred by this act how to be applied.

C H A P. LVII.

An ACT authorising the Corporation of the City of New-York to remove the Statue therein mentioned. Passed the 7th of March 1788.

WHEREAS the levelling and altering of Wall-street in the city of New-York renders it inconvenient that the remains of the Statue of the late Earl of Chatham, while the Right Honorable William Pitt, which now stands in the said street should continue there: *Therefore,* Preamble.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That it shall be lawful for the corporation of the city of New-York to cause the said statue to be removed to some convenient place, where the same may be preserved until the further order of the Legislature. Corporation empowered to remove Pitt's statue.

C H A P. LVIII.

An ACT supplementary to the Act entitled, "An Act to prevent the Exportation of unmerchantable Flour, and the false taring of Bread and flour Casks. Passed the 7th of March 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That the act entitled, "An act to prevent the exportation of unmerchantable flour, and the false taring of bread and flour casks," passed the sixteenth of March, one thousand seven hundred and eighty-five, and every section and article therein mentioned, except the fifteenth and twenty-first sections thereof, shall extend, and it is declared and enacted to extend to rye and buckwheat flour in as full and ample a manner as if the said several articles had been expressly named or mentioned in the said act, any thing in the said act to the contrary notwithstanding. The act for preventing the exportation of unmerchantable wheat extended to rye and buckwheat flour.

II. *And be it further enacted by the authority aforesaid,* That every cask containing rye or buckwheat flour, shall (besides the marks and brands directed by the said act, to be put by manufacturers on casks containing wheat flour) be branded on one of the heads with the words RYE FLOUR or BUCK W. FLOUR, as the case may require. Casks containing rye and buck-wheat flour how to be marked.

III. *And be it further enacted by the authority aforesaid,* That no meal made of Indian-corn shall be exported from this State, unless it be inspected by one of the inspectors appointed pursuant to the act herein before mentioned, and unless it shall appear to the satisfaction of the said inspectors that the corn of which the said meal was made had been sufficiently dry, or had been kiln-dried, and such as has been kiln-dried, shall be branded on the cask with the letters KILN D. MEAL, and with the initial No Indian meal to be exported without inspection, and how to be marked.

Size of the casks for Indian meal, & what quantity each is to contain.

Proviso.

Penalty for mixing inspected with uninspected flour or meal.

Penalty for exporting any meal without inspection or branding, and no flour to be inspected but what is in new casks.

Word BAD to be branded on casks of condemned flour.

Casks containing flour called midlings, how to be marked.

Standard weight of merchantable wheat to be sixty pounds to the bushel.

All kinds of hard bread to be marked with the bakers name, and the casks containing such bread to be also marked.

Penalty for exporting hard bread not so marked.

letter of the miller or owner's christian name, and his surname at full length; and the casks containing the same shall be of the following dimensions, *to wit*, twenty-seven inches in length, and the diameter of each head sixteen inches and one half, and the casks made nearly straight, for the convenience of stowing in vessels; and each of the said casks shall contain one hundred and sixty-eight pounds of meal, which weight shall be branded on each of the casks, and the tare marked thereon with a marking iron. *Provided nevertheless*, That nothing in this act shall prevent the packing of Indian-meal for exportation in hogheads; but all such meal shall be inspected and branded as if packed in barrels, and the inspectors shall be entitled to receive, for inspecting each hoghead the sum of *three pence*, and for each barrel the sum of *one penny half-penny* and the weight of meal in each such hoghead shall be marked thereon.

IV. *And be it further enacted by the authority aforesaid*, That if any person or persons shall mix any uninspected buckwheat flour, rye flour, or meal made of Indian-corn, with such as has been inspected, and shall offer the same for sale as inspected flour, he, she, or they, so offending, shall forfeit, for each barrel so mixed and offered for sale, the sum of *twenty shillings*; and for each hoghead so mixed and offered for sale, the sum of *three pounds*. And if any person or persons shall export any Indian-meal that has not been inspected and branded as herein before directed, he, she or they shall forfeit, for every barrel so exported, the sum of *ten shillings*, and for every hoghead so exported, the sum of *thirty shillings*. And the said inspectors, appointed, or to be appointed, pursuant to the said herein before mentioned act, are hereby directed not to inspect any wheat-flour but what shall be packed in new casks not before used for any purpose.

V. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the inspector or inspectors of flour and meal, in this state, and they are hereby directed to brand or mark the word *bad* on the head of each cask of condemned flour or meal.

VI. *And be it further enacted by the authority aforesaid*, That on the head of each cask or barrel, in which flour, commonly called midlings, or cornel, shall be packed for sale or exportation, the initial letter of the owner's or miller's christian name, with his surname at full length, shall be branded, and also the word midlings, or cornel, as the case may be; and every person who shall sell or export any midlings or cornels in casks not branded as herein before directed, shall forfeit for each cask so sold or exported, and not branded, the sum of *ten shillings*.

VII. *And be it further enacted by the authority aforesaid*, That the standard weight of wheat brought to the city of New-York for sale, shall be sixty pounds nett to the bushel; and in all cases of sales of wheat in the said city by the bushel, if the same shall exceed the standard weight, the buyer shall pay a proportionably greater price; and if the same shall be less than the said standard, the buyer shall pay a proportionably less price: *Provided*, that this regulation shall not extend to any special contracts respecting the sales of wheat, whatever may be the weight thereof.

VIII. *And be it further enacted by the authority aforesaid*, That every baker of any of the kinds of hard bread, commonly called ship, midling, water, butter or milk biscuit, intended for sale, shall cause the initial letter of his christian, with his surname at full length, to be impressed on each biscuit so baked, and that upon the head of every cask or keg in which any such biscuit are packed for exportation, shall be marked with a marking iron, the tare of such cask or keg, and that the initial letter of the baker's christian name, with his surname at full length, shall be branded thereon, with words expressing the kind of bread or biscuit contained in the same, and the name of the city or county where such bread or biscuit was baked; and such biscuit as is commonly sold in small kegs shall contain either seven or fourteen pounds of the said bread. And if any person or persons shall sell or ship for exportation, any kind of hard bread, not marked and branded as herein before directed, he, she or they shall forfeit for each hundred weight so shipped or sold, the sum of *five shillings*, and so in proportion for a greater or less quantity.

IX. *And*

IX. *And be it further enacted by the authority aforesaid,* That the several measurers appointed or to be appointed within this State shall be entitled to receive and take for measuring flax-seed, salt, wheat, rye, corn, buck-wheat or any other article commonly sold by the bushel, *one half-penny* per bushel, and no more; and for all coal measured, at and after the rate of *two shillings* for every chaldron, and no more; the one half to be paid by the buyer, and the other half by the seller, unless a particular contract is made to the contrary.

Allowance to measurers for measuring flax-seed, wheat, rye, salt, &c.

X. *And be it further enacted by the authority aforesaid,* That this act shall be in force from and after the first day of July next, and that all forfeitures mentioned in the same, shall and may be recovered in any court having cognizance thereof, with costs of suit, by any person or persons who shall sue for them respectively, by action of debt bill, plaint or information; the one half thereof to be for his, her, or their own use, and the other half for the use of the people of this State.

This act when to be in force and the penalties thereby incurred how to be recovered and applied.

CHAP. LIX.

An ACT for the relief of William Chace. Passed the 7th of March 1788.

WHEREAS William Chace of Schaghticooke in the county of Albany hath erected a bridge across the Hofick river, being thereunto encouraged by sundry of the inhabitants of that and the neighbouring districts: And whereas it appears to the Legislature, that he hath expended to the amount of about sixteen hundred pounds in erecting the said bridge: And whereas the said bridge is found to be of great public utility, and it appears proper that compensation should be made to the said William Chace, *Therefore,*

Preamble.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the said William Chace, his heirs, executors, administrators and assigns, from and after the passing of this act, and for and during the term of twenty years, to ask, demand and take for the use of the said bridge, a toll agreeable to the following rates, viz.

William Chace authorized to take toll for a bridge by him erected across the Hofick river for the term of twenty years.

For every carriage crossing the said bridge drawn by two horses, or two working cattle, the sum of *one shilling*.

Rates of said toll.

For every carriage drawn by more than two horses or two cattle, at and after the rate of *three pence* for each additional horse or working creature.

For a man and horse the sum of *six pence*.

For a single person the sum of *two pence*.

For every single horse, mare or colt the sum of *two pence*.

For every ox, cow, heifer or calf the sum of *two pence*.

For sheep and hogs, at and after the rate of *one shilling* per score.

II. *Provided always, and be it further enacted by the authority aforesaid,* That all persons who have subscribed and paid any money towards the building of the said bridge, shall be exempted from the payment of toll upon passing the said bridge for themselves, their goods and property, until the amount of the toll that would be otherwise payable by them respectively shall be equal in amount to the several sums of money by them respectively subscribed and paid as aforesaid.

Persons who subscribed and paid money towards said bridge exempted from toll.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful, to and for the said William Chace, to fence up, or otherwise stop up, so much of the highway leading from the northward to Harts Point, as runs thro' his own land, and lies between the said bridge, and the places where the said Hofick river was crossed by the ford and ferry before the erecting of the said bridge.

Said Chace authorized to stop up a certain part of the road near said bridge.

III. *And be it further enacted by the authority aforesaid,* That it shall not be lawful to and for any person or persons whatsoever, to erect or cause to be erected, any bridge

No other bridge to be erected within two miles of said bridge

bridge over said river except for private use.

bridge over or across the said Hofick river, at any place nearer than two miles on a straight line, to the eastward and westward of the said bridge so erected by the said William Chace, unless for the private use of the proprietor or proprietors of the soil where such bridge shall be erected; and if any such private bridge shall be erected, and the proprietor thereof shall permit any carriages or cattle, other than those actually belonging to himself, to cross such bridge, such proprietor shall pay unto the said William Chace, his heirs, executors, administrators or assigns, treble the toll herein before specified, to be recovered in any suit or action of debt, before any Justice of the Peace having cognizance thereof.

C H A P. LX.

An A C T to raise a further Sum of Money to finish the Court-Houses and Gaol in Westchester County; and for other purposes therein mentioned. Passed the 7th of March, 1788.

Preamble.

WHEREAS the money heretofore raised and collected in the county of Westchester, has proved insufficient to build and finish the court-houses and gaol in the said county: *Therefore,*

Supervisors of Westchester county to cause 750l. to be raised for finishing the two court houses and gaol in said county.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the supervisors of the several towns in the county of Westchester, for the time being, shall be and they are hereby authorized and required, to cause to be raised and levied on the freeholders and inhabitants of the said county, a sum not exceeding seven hundred and fifty pounds, for finishing the two court-houses and gaol in the said county, with an additional sum of *one shilling* in the pound for collecting the same, which said sums shall be raised, levied and collected in like manner as the other necessary and contingent charges of the county are raised, levied and collected.

Supervisors when and where to meet to apportion the said sum among the towns.

II. *And be it further enacted by the authority aforesaid,* That the said supervisors shall meet at the court-house at the White-Plains, in the said county, on the first Tuesday in May, in the present year one thousand seven hundred and eighty-eight, for the purpose of dividing and apportioning, among the several towns in the said county, the money to be raised by virtue of this act; and it is hereby made the duty of the Clerk of the said supervisors to notify the respective supervisors of such meeting: Which money, to be raised as aforesaid, shall be collected and paid into the treasury of the said county, on or before the first day of July next, and the sum of *six hundred pounds* of the said money shall be applied towards the finishing the court-house and gaol at the White-Plains, and the sum of *one hundred and fifty pounds* of the said money shall be applied towards the finishing the court-house at Bedford.

Said money when to be collected and paid to the county Treasurer, and how to be applied.

County Treasurer to pay the money to the trustees appointed to build the said court houses and gaol, and they to account to supervisors for the expenditure.

III. *And be it further enacted by the authority aforesaid,* That the County Treasurer shall pay to the trustees appointed by virtue of an act entitled "An Act for building two court-houses and a gaol in the county of Westchester, and raising money for that purpose, passed the first day of May, one thousand seven hundred and eighty-six," the monies he shall receive by virtue of this act; retaining in his hands a sum not exceeding *one half per cent.* on the monies received and paid out by him by virtue of this act; and the said trustees shall account to the supervisors of the said county, for the money so by them to be received and expended.

Treasurer, supervisors, &c. for neglect of duty to forfeit 50l.

IV. *And be it further enacted by the authority aforesaid,* That if the said treasurer or any supervisor, assessor or collector, shall neglect or refuse to perform the duty required of him by this act, the person so neglecting or refusing, shall forfeit the sum of *fifty pounds*, to be recovered in an action of debt, in any court of record within this State, by the trustees before mentioned, or the survivors of them; which forfeiture or forfeitures, when recovered, shall be applied to defraying the expences of finishing the said court-houses and gaol.

And

And whereas it is suggested to the Legislature, that there remains due from the town of Bedford to the late Church Wardens of the late parish of Rye, and others, sundry sums of money which ought to have been raised by the said town by virtue of former laws for the support of the poor: *Therefore,*

V. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for the supervisors of the said county of Westchester, or the major part of them, and they are hereby required at their next annual meeting to examine into and ascertain the amount of the monies so due from the said town of Bedford, and to cause all such sum and sums of money as they shall find to be so due, together with *one shilling* in the pound for collecting, and *two pence* in the pound for the fees of the county Treasurer, for receiving and paying, to be raised, levied and collected, in the said town of Bedford, from the freeholders and inhabitants of the same town, in the same manner as the proportion of the said town, of the necessary and contingent charges of the said county are raised, levied and collected, and to be paid by the collector after deducting his fees for collecting as aforesaid, to the Treasurer of the said county, on or before the first day of January next, who shall pay the same, after deducting his fees to the persons to whom the said monies are due, in discharge of their demands, as the said supervisor shall order and direct. And if any supervisor, assessor or collector, shall refuse or neglect to perform the duty required of him by this clause of this act, he shall forfeit and pay the sum of *one hundred pounds*, to the Treasurer of the said county, to be recovered with costs in any Court of Record, by action of debt, bill, plaint or information, in the name of the Treasurer of the county of Westchester for the time being, and to be disposed of for the use of the same county, in such manner and for such purposes, as the supervisors of the same county for the time being, shall think proper and direct.

Recital.

Supervisors to examine what sums are due by the town of Bedford, under former laws for the support of the poor, and to order the same to be raised & collected.

Any Supervisor, Assessor, &c. for neglect of duty therein, to pay one hundred pounds.

C H A P. LXI.

An ACT making such alterations in the Act for Incorporating religious Societies, as to render the same more Convenient to the Reformed Protestant Dutch Congregations. Passed the 7th of March 1788.

WHEREAS by the usage of the religious societies commonly known by the appellation of the Reformed Protestant Dutch Churches or Congregations, the Minister or Ministers, and Elders and Deacons for the time being, have the management of the temporalities of the respective congregations, and the said congregations cannot therefore avail themselves of the benefit intended by the act, entitled, "An act to enable all the religious denominations in this State, to appoint trustees who shall be a body corporate for the purpose of taking care of the temporalities of their respective congregations, and for other purposes therein mentioned." Passed the 6th day of April 1784, without departing from such usage, which hath long been established, and hath always been approved of by the members of the said congregations. And whereas several of the said congregations have, by their petitions to the Legislature, prayed, that they might be accommodated in this respect, and that the requisite alterations might be made in the said act. *Therefore,*

Preamble.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Elders and Deacons for the time being, and if there shall be a Minister or Ministers, then the Minister or Ministers, and Elders and Deacons for the time being, during the time there shall so be a Minister or Ministers, of every Reformed Protestant Dutch Church, or Congregation, established or formed, or hereafter to be established or formed in this State, shall be trustees for their respective churches or congregations, and be respectively bodies corporate, to the same intents and purposes, and with the like powers and authorities, and capacities, and subject to the same duties, as are, in and by

Ministers, Elders and Deacons of Reformed Protestant Dutch Churches, for the time being, to be trustees of said Churches, and considered as bodies corporate, as tho' they had been elected agreeable to an act herein recited.

H h

the

Said Ministers, Elders & Deacons to meet and execute a certificate purporting by what name the said Trustee shall thereafter be known as a body corporate.

the said act, declared and enacted, with respect to trustees elected agreeable to the mode therein prescribed. That the said trustees so to be respective bodies corporate in virtue of this act, shall be respectively elected agreeable to the rules and usages of the Reformed Protestant Dutch Churches within this State. That it shall be lawful for the Elders and Deacons, and where there shall be a Minister or Ministers, then for the Minister or Ministers, and Elders and Deacons of every Reformed Protestant Dutch Church or Congregation, already formed or established, or hereafter to be formed or established, within this State, to assemble together as soon as they shall respectively deem it convenient, and to execute under their hands and seals, a certificate certifying the name, style or title by which they the said Trustees of such Church or Congregation and their successors forever, shall as a body corporate, by virtue of this act, be called, distinguished or known; and which certificate shall be proved or acknowledged and recorded in like manner as is directed in and by the said act. *And further*, That it shall be lawful for the Trustees of any such Church or Congregation, elected in virtue of the said act, by writing under their hands and seals, to be proved or acknowledged, and recorded as aforesaid, to declare their will, not to continue longer a body corporate, and from and immediately after the recording of such writing, such body corporate shall cease, and all the estate, real or personal, held by them, shall pass to and be vested in the Trustees of such Church or Congregation made a body corporate by virtue of this act.

C H A P. LXII.

An ACT for the better settlement and relief of the Poor. Passed the 7th of March 1788.

Preamble.

WHEREAS the laws of this State for the settlement and relief of the poor, and for the removal of disorderly persons, have by experience been found insufficient, *For remedy whereof*,

Every city and town to support their own poor.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That every city and town shall support and maintain their own poor.

By what means any persons may gain a legal settlement in any town.

II. *And be it further enacted by the authority aforesaid*, That every person who shall have come to inhabit in any city or town within this State, and shall actually and *bona fide* have rented and occupied a tenement of the yearly value of *twelve pounds* or upwards for two years, and actually paid such rent, and every person who shall have come to inhabit in any city or town within this State, and shall for himself, or on his own account have executed any public annual office or charge in such city or town, during one whole year; or who shall have been charged with and paid his or her share towards the public taxes of such city or town, for the space of two years; and every person who shall have been bound an apprentice or servant by indenture, or by any deed, contract or writing not indented, and shall in consequence of such binding, have served a term not less than two years, in such city or town, shall be deemed and adjudged to have obtained a legal settlement in such city or town; and that all mariners coming into this State, and having no settlement in this State, or in any other of the United States of America; and every other healthy able-bodied person coming directly from some foreign port or place into this State, shall be deemed and adjudged to be legally settled in the city or town in which he or she shall have first resided for the space of one year.

A bastard's settlement to be the last settlement of his or her mother.

III. *And be it further enacted by the authority aforesaid*, That every bastard child shall be deemed and adjudged to be settled in the city or town of the last legal settlement of his or her mother.

Purchase of any estate for a less con-

IV. *And be it further enacted by the authority aforesaid*, That no person or persons shall be deemed, adjudged or taken to acquire or gain a settlement in any city or

or town, within this State for or by virtue of any purchase of any estate, or interest in such city or town, whereof the consideration for such purchase shall not amount to the sum of *thirty pounds, bona fide* paid for any longer or further time than such person or persons shall inhabit in such estate, and shall then be liable to be removed to the city or town where such person or persons were last legally settled before the said purchase and inhabitancy therein.

V. *And be it further enacted by the authority aforesaid,* That if any person or persons, other than those herein before mentioned, coming into any city or town within this State, shall within *forty days* after his, her or their coming into such city or town, deliver a notice in writing to any two overseers of the poor of such city or town into which he, she or they shall so come to reside, of the house or place of his, her or their abode, and the number and names of his, her or their family (if he, she or they shall have any) which notice such overseers of the poor are hereby required to register or to cause to be registered within forty-eight hours after the receipt thereof, in the book kept in such city or town for the accounts of the poor, and in case the overseers of the poor of such city or town shall not within twelve months after such notice, cause such person or persons to be removed out of such city or town, in the manner herein after mentioned, that then and in such case the person or persons so giving notice as aforesaid shall be deemed and adjudged to be legally settled in such city or town to all intents and purposes whatsoever.

VI. *And be it further enacted by the authority aforesaid,* That if any overseer or overseers of the poor shall refuse or neglect to register or to cause to be registered such notice in writing as aforesaid, in such time and manner as aforesaid, he or they shall, for every such refusal or neglect, forfeit the sum of *forty shillings*, to the use of the party aggrieved, to be recovered with costs of suit, in any court having cognizance thereof.

VII. *And be it further enacted by the authority aforesaid,* That if any overseer or overseers of the poor of any city or town shall have reason to believe that any stranger who shall have come to reside in such city or town, and who shall not have obtained a legal settlement in such city or town, according to the true intent and meaning of this act, is likely to become chargeable to such city or town, such overseer or overseers of the poor shall and may apply to any two Justices of the Peace of such city, or of the county in which such town shall lie, and inform them thereof; and the said Justices being so or otherwise informed, or seeing such stranger and suspecting him or her to be of insufficient abilities or likely to become a charge to such city or town, are hereby authorized and required to issue their warrant to a constable of such city or town, thereby commanding him to bring such stranger before them the said Justices, at such time and place as they, in their said warrant shall for that purpose appoint, and they the said Justices shall examine every stranger so brought before them and any other person or persons, whom they may think necessary upon oath, relating to the abilities and last place of legal settlement of such stranger; and if upon such examination the said Justices shall find such stranger likely to become a charge to such city or town, they shall order and direct such stranger, by a certain day by them to be prefixed, to remove to the place of his, her or their former settlement, and on neglect or refusal to comply with the said order, the said Justices shall issue a warrant under their hands and seals, directed to any constable of such city or town (who is hereby required and commanded to execute such warrant) thereby commanding him to convey or transport such stranger to the constable of the next city or town, through which such stranger shall have been suffered to wander and stroll unapprehended, and so from constable to constable, or in such other manner, by the nearest and most convenient route, as the said Justices shall think fit to direct to the place of legal settlement of such stranger, if the same shall be within this State. *And further,* If such stranger hath no place of legal settlement within this State, or if the said Justices shall not be able to discover where the last place of legal settlement of such stranger was, then the said Justices shall, in their said warrant direct that he or she be conveyed and transported to the city or town from whence he or she last came, and the constable so conveying such stranger shall deliver him or her, together with his warrant aforesaid, to or at the house of some constable of such

consideration than 30l. not to gain a settlement.

Any stranger coming into any town, to give notice thereof to an overseer of the poor within forty days, and if after such notice, he is not removed in one year, then he shall gain a settlement.

Overseer, for neglecting to register such notice, to forfeit 40s.

Overseers, when they suspect any stranger will become a charge to their town, to apply to two Justices of the Peace.

Who if they find him likely to become a charge, may by warrant remove him to his place of last legal settlement.

And if he has no place of legal settlement in this State, then to the town from whence he last came, & so from town to town.

such city or town, which constable is hereby required to receive such stranger, and convey him or her to the next constable, and so from constable to constable, or otherwise, as such Justices shall direct as aforesaid, until such stranger shall be transported into some city or town within this State, where he or she shall have come from or be legally settled in, or out of this State into the State from whence he or she came into this State as the case may require.

Any householder entertaining a stranger for fifteen days without giving notice, to forfeit forty shillings.

And if such stranger continues beyond forty days, then the Justices shall cause all householders who have entertained him, to enter in bond in the sum of 100l. conditioned that such stranger shall not become a public charge.

And in case of their refusal to become so, bound to commit them or any of them to goal.

Constable's allowance for removing strangers, to be at the expence of the city or county.

What is to be done with any person who has been removed, and shall return again.

VIII. *And be it further enacted by the authority aforesaid,* That if any householder or inhabitant of this State shall take into, receive or entertain, in his, her or their dwelling-house, out-house or family, for the space of fifteen days, any person who hath not gained a settlement in some city or town within this State, and shall not, within the time aforesaid, give notice in writing to one of the overseers of the poor of such city or town, of the name, quality, condition and circumstances of the person so entertained, according to the best knowledge of such householder or inhabitant; every such householder or inhabitant so entertaining as aforesaid, shall for every such offence forfeit the sum of *forty shillings*, to be recovered with costs of suit, before any court having cognizance thereof, by any person or persons who shall sue and prosecute for the same to effect; one half of which forfeiture when recovered to be paid to the overseers of the poor of such city or town, and the other half to the person or persons who shall sue for the same as aforesaid. *And further,* If the person so entertained as aforesaid, shall have remained in any city or town longer then the term of *forty days*, then and in such case it shall and may be lawful for any two Justices of the Peace of such city, or of the county in which such town shall lie, to cause such and so many of the householders or inhabitants of such city or town who shall have so entertained such stranger during the term of fifteen days, without giving information thereof as aforesaid, to be brought before them the said Justices, and such householders or inhabitants shall enter into bond to the overseers of the poor of such city or town for the time being and their successors, in the sum of *one hundred pounds*, conditioned that such stranger shall not become a charge to such city or town: And in case any of the said persons, who shall have entertained such stranger as aforesaid, being in the opinion of such Justices of the Peace of sufficient ability, shall refuse to become bound as aforesaid, it shall and may be lawful for the said Justices of the Peace, by warrant under their hands and seals, directed to any constable of such city or town, to cause such person or persons so refusing, to be committed to the common gaol of such city, or of the county in which such town shall lie, there to remain until he, she or they respectively shall consent and become bound as aforesaid; and such bond shall not be avoided by plea of *duress*: But if the person or persons so entertaining such strangers shall not, in the opinion of the said Justices of the Peace, be of sufficient abilities to become bound as aforesaid, or if the said Justices shall not think fit to take such bond as aforesaid, then they shall cause such stranger to be conveyed from constable to constable in manner aforesaid, until he or she shall be transported to the place of his or her last settlement, if within this State, or into any other of the United States, if from thence he or she came.

IX. *And be it further enacted by the authority aforesaid,* That every constable transporting any stranger or strangers, shall receive so much money for his or their services, as the Supervisors of the city or county shall judge he reasonably deserved to have. *And further,* That the charges of every transportation shall be borne by the respective city or county, and be raised, levied, collected and paid in the same manner as other monies for the contingent charges of such city or county, are raised, levied, collected and paid in such respective city or county.

X. *And be it further enacted by the authority aforesaid,* That if any person so removed or transported, as aforesaid, shall return into this State, or from the place of his or her legal settlement, to the city or town from whence he or she was so removed or transported as aforesaid, so as to be likely to become a burthen to such city or town aforesaid, such person so returning shall, by warrant from any two Justices of the Peace of such city, or of such county, in which such town shall lie, be apprehended and re-transported

transported as aforesaid; and shall, by every Constable into whose charge such person shall come, if the Justices so removing him or her, shall think proper and so direct, be whipped, if a man, not exceeding thirty-nine lashes, and if a woman, not exceeding twenty-five lashes, and so as often as he or she shall return, after such transportation.

XI. *And be it further enacted by the authority aforesaid,* That if any person be removed by virtue of this act, from one city or town to another within this State, by warrant under the hands and seals of any two Justices of the Peace as aforesaid, the overseers of the poor of the city or town to which the said person shall be so removed, are hereby required to receive the said person; and if they or any of them shall refuse or neglect so to do, the overseer or overseers so refusing or neglecting, shall, if thereof convicted by the oath of two witnesses, forfeit and pay, for each offence, the sum of ten pounds to the use of the poor of the city or town from which the said person was so removed, to be recovered with costs of suit, in any court having cognizance thereof, by the overseers of the poor of such city or town from which such person was so removed as aforesaid.

Overseers of one town refusing to receive a person sent by warrant from another town to forfeit ten pounds.

XII. *Provided always, and be it further enacted by the authority aforesaid,* That no person or persons, his, her or their child or children shall acquire or gain a settlement in the city or town to which he, she or they shall be so removed by virtue of this act, but his, her or their settlement shall be and remain in the same place where it was before such removal; any thing in this act to the contrary notwithstanding.

No person to gain a legal settlement by any such removal.

And whereas many poor persons resident in this State, cannot find employment in the city or town where they are legally settled, and are not able to give security that they and their families shall not become chargeable to any other city or town where they can find employ. *For remedy whereof,*

Recital.

XIII. *Be it further enacted by the authority aforesaid,* That if any person or persons who shall think proper to remove out of any one city or town within this State into any other, there to inhabit or reside, and shall at the same time procure, bring and deliver to the overseers of the poor of the city or town, where he, she, or they shall so come to inhabit or reside, or to any one of them, a certificate under the hands and seals of the overseers of the poor or of any two of them, of the city or town of his her or their last legal settlement, attested by two or more credible witnesses, thereby owning or acknowledging the person or persons mentioned in such certificate to be an inhabitant or inhabitants legally settled in the city or town mentioned in such certificate as aforesaid, which certificate shall be, either acknowledged by the overseers of the poor giving the same, or shall be duly proved by the witnesses, who shall have attested the execution thereof, or one of them, before any Justice of the Peace of the city, or of the county wherein the town, from whence any such certificate shall come, shall lie, and shall be approved of and subscribed by such Justice of the Peace; then and in such case, it shall and may be lawful for every such person, with his or her family (if he or she have any) upon the delivery of such certificate as aforesaid, to continue, abide and remain in any such city or town, to which he, she or they shall remove as aforesaid, and to follow any honest employment, within the same; and the overseers of the poor shall deliver every such certificate to the Town-Clerk of the city or town, in which any such person or persons shall come to reside as aforesaid, who is hereby required to file and record the same. *And further,* That every such certificate so acknowledged or proved and allowed as aforesaid, shall be deemed, taken and allowed, in all courts whatsoever within this State, as duly and fully proved, and shall be taken and received as evidence, without any other proof thereof.

Poor persons who cannot find employ in their own town may remove to any other upon producing a certificate from their own town, acknowledging them as inhabitants.

Such certificate to be filed with the Town Clerk, and allowed as evidence in all Courts.

XIV. *And be it further enacted by the authority aforesaid,* That whenever any person, with his or her family (if he or she have any) or any part thereof, so remaining by virtue of the certificate or certificates aforesaid, shall become chargeable or be obliged, by sickness or otherwise to ask relief of the city or town into which he she or they were received as aforesaid, that then, and not before, it shall and may be lawful for any two Justices of the Peace of the city or county into which such person or persons were received by virtue of such certificate as aforesaid, to remove and convey all and every such person or persons, with all and every of his or her family, and his or her

Any person having such certificate and becoming a charge to the town to which he removed, may be sent back to the place of his last legal settlement.

children, though born in such city or town, and his or her servants and apprentices, not having otherwise acquired a legal settlement there, to the city or town from which such certificate was brought as aforesaid; the overseers of the poor of which city or town are in such case hereby required and obliged to receive and provide for every such person and his or her family as aforesaid.

No person removing into any town by virtue of such certificate, shall be deemed to have gained a settlement thereby.

XV. *And be it further enacted by the authority aforesaid,* That no person who shall come to reside in any city or town, by virtue of any such certificate as aforesaid, shall be deemed or adjudged by any act whatsoever of him or her, to have gained a legal settlement in such city or town during the time he or she shall reside there by virtue of such certificate, unless he or she shall really and *bona fide* purchase a freehold of the value of *thirty pounds* or upwards, or really and *bona fide* have rented and occupied a tenement of the yearly value of *twelve pounds* or upwards, for two whole years, or shall have executed a public annual office or charge in such city or town for one whole year as aforesaid.

When any person having such certificate is sent back again, the overseers to sending him back to be reimbursed their expences.

XVI. *And be it further enacted by the authority aforesaid,* That when any person or persons, or their families, residing in any city or town, or sent thither by certificate, and becoming chargeable as aforesaid, shall be removed back to the city or town to which such person or persons shall belong, the overseers of the poor shall be reimbursed such reasonable charges, as he or they may have been put unto, in maintaining and removing such person or persons, by the overseers of the poor of the city or town to which such person or persons is are or shall be removed, the said charges having been first ascertained and allowed by two or more of the Justices of the Peace of the city, or of the county in which such town, from which such removal shall be made shall lie; which said charges, so ascertained and allowed, shall, in case of refusal of payment, be levied by distress and sale of the goods and chattels of the overseers of the poor of the city or town to which such certificate person or persons shall be removed as aforesaid, by warrant or warrants, under the hands and seals of any two Justices of the Peace of the city or county where the overseers of the poor shall reside (who are hereby authorized and required to issue the same) directed to some constable of such city or town, returning the overplus, if any there be, after deducting all lawful costs and charges of such sale.

Which said expences if refused to be paid, shall be levied on the goods of the overseers of the poor of the town to which he is sent back.

And whereas, it often happens that poor persons having a residence in one city or town, remove from thence into another city or town within this State, without such certificate as aforesaid, and there become sick, lame, or otherwise so infirm that they cannot be removed, and sometimes die before they can be legally sent back, whereby the inhabitants of such city or town where such poor persons become sick, lame or die, are put to charge and expence in the maintenance or burying such poor persons; *And whereas* it is just and reasonable that such charges and expences should be repaid, *Therefore,*

Recital.

If any poor person removing from his own town without a certificate, becomes unable to be sent back by sickness, overseers of the poor of the town where he is to notify the overseers of his own town who shall provide for his maintenance, and funeral if he dies.

XVII. *Be it further enacted by the authority aforesaid,* That if any poor person shall remove or come out of any city or town, where he or she is or shall be legally settled, into any other city or town within this State, and shall be taken sick or lame, so that he or she cannot be conveniently removed back, to the place of his or her last legal settlement, then the overseers of the poor of such city or town into which such poor person shall so come as aforesaid, or one of them, shall give notice in writing to the overseers of the poor of the city or town out of which such poor person shall have come as aforesaid, of the name, condition and circumstances of such poor person, and request such overseers of the poor, or one of them to take care of, relieve and maintain such sick or lame poor person during his or her illness, and also to provide for his or her funeral, if he or she should die there; and if such overseer or overseers of the poor having notice as aforesaid, shall neglect or refuse so to do, then and in such case it shall be lawful for any two Justices of the Peace of the city, or of the county in which such town shall lie, where such poor person had his or her last legal place of settlement, upon complaint made to them, to cause all such sum and sums of money as shall be necessarily expended in the maintenance of such poor person in his or her sickness or lameness, or on his or her funeral, to be levied, by distress and sale of the goods and chattels of the said overseer or overseers of the poor, so neglecting or refusing to take care of and

And on refusal to provide as aforesaid, amount of expences to be levied on the goods and chattels of such overseers.

provide

provide for any such poor person as aforesaid, after such notice given to him or them as aforesaid, by warrant or warrants, under the hands and seals of such Justices (who are hereby authorised and required to issue the same) directed to some constable of the city or town where such overseer or overseers of the poor shall reside, returning the overplus, if any there be, after deducting all lawful costs and charges of such sale as aforesaid, and such sum or sums of money so recovered, shall be paid to the overseers of the poor, or to one of them, of such city or town where such poor person shall be sick, lame or die, as aforesaid.

XVIII. *Provided always, and be it further enacted by the authority aforesaid,* That all and every person and persons who shall think himself, herself or themselves aggrieved, by any judgment or order of any Justice or Justices of the Peace, or by any warrant of removal of any poor person, may appeal to the next General Sessions of the Peace, to be holden in and for such city, or in and for the county in which such city or town shall lie, where such judgment or order shall be made, or from which such poor person shall be removed as aforesaid, who are hereby authorised and required to hear and determine such appeals, and to do justice therein, according to the merits of the respective cases. *And further,* That no Justice of the Peace, who shall reside in any city or town where any dispute shall happen (except in the city and county of New-York) shall sit in court upon such appeals.

Any person thinking himself aggrieved by such proceedings may appeal to the next General Sessions of the Peace

XIX. *And be it further enacted by the authority aforesaid,* That on every appeal to be made to the Court of General Sessions of the Peace to be holden in and for the city and county of New-York, the Justices who shall determine such appeal, shall upon request, state the case specially, particularly and at large, that all and every person or persons who shall think himself, herself or themselves aggrieved by the determination on such appeal, may have remedy thereupon in the Supreme Court.

Justices determining such appeal, to state the case specially, that the party may have remedy in the Supreme Court.

XX. *And be it further enacted by the authority aforesaid,* That no appeal or appeals, from any judgment or order whatsoever of any Justice or Justices of the Peace, or from any order of removal of any poor person or persons whatsoever, from one city or town to another, shall be proceeded upon, in any Court of General Sessions of the Peace, unless reasonable notice in writing be given, by the overseers of the Poor of the city or town, or the person or persons who shall make such appeal unto the overseers of the poor or one of them, of such city or town as shall be affected by such judgment or order, or from which such poor person shall be removed; the reasonableness of which notice to be determined by the Justices of such General Sessions of the Peace, to which the appeal is made; and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn such appeal to the next General Sessions of the Peace and then and there finally hear and determine the same.

No appeal to be made without notice in writing to the party affected thereby.

And for the preventing vexatious removals and frivolous appeals,

XXI. *Be it further enacted by the authority aforesaid,* That if the Justices shall at their General Sessions of the Peace to be holden in and for any city or county within this State, upon any appeal before them there to be had and prosecuted, for and concerning the settlement of any poor person or persons, determine in-favour of the appellant or appellants, that such poor person or persons was or were unduly removed, that then the said Justices shall at the same General Sessions, order and award, to such appellant or appellants, so much money (besides his, or their costs and charges) as shall appear to the said Justices to have been reasonably paid and expended by the overseers of the poor of the city or town on whose behalf such appeal was made, for or towards the relief of such poor person or persons, between the time of such undue removal and the determination of such appeal. *And further,* That upon every appeal before them there to be had for or concerning any judgment or order of any Justice or Justices, for and concerning the settlement of any poor person, or upon any proof before them there to be had of notice of any such appeal to have been given, by the overseers of the poor of one city or town, or by any other person or persons, to the overseers of the poor of another city or town, or to any other person or persons, though he, she or they did not afterwards prosecute such appeal, the Justices at the same General Sessions of the Peace, shall award and order to the party for whom and in whose favour such

Justices when they determine in favour of any appellant to award to the appellant as much money as has been expended by undue removal.

And also to award reasonable costs.

And if the person against whom such warrant is made resides out of the jurisdiction of such Court of General Sessions, he may be sued before any court having cognizance thereof where he resides.

Father and grandfather, child or grand-child, &c. of any poor person, to maintain him as the justices shall direct on pain of forfeiting ten shillings per week.

Reciting that persons sometimes run away and leave their families behind as a public charge.

When any person runs away leaving his, or her family behind a charge as aforesaid, his or her estate to be seized by the overseers of the poor for the maintenance of such family.

And when such seizure is confirmed by the court the overseers may sell the goods and receive the rents, being accountable for the same to the court.

such appeal shall be determined, or to whom such notice did appear to have been given as aforesaid, such costs and charges in the law, as by the said Justices in their discretion shall be thought reasonable and just, to be paid by the overseers of the poor of the city or town or other person or persons against whom such appeal shall be determined, or who gave notice of such appeal as aforesaid, and did not prosecute the same. *And further*, If in any of the cases aforesaid the person or persons ordered to pay such monies and costs and charges aforesaid, shall reside in any city or county out of the jurisdiction of such Court of General Sessions of the Peace, it shall and may be lawful for the overseers of the poor, to whom such monies were, by order of such Court of General Sessions of the Peace, directed to be paid, to sue for and recover the same monies against the person or persons against whom such award or order was made, with costs of suit, in an action for monies had and received to the plaintiffs use, in any Court in this State having cognizance thereof, where the person or persons against whom such determination shall be given as aforesaid, shall reside; in which action a true copy of the award and order of such Justices in their Court of General Sessions of the Peace, signed by the Clerk and sealed with the seal of the same court, when produced, shall be sufficient evidence for the recovery of such sum or sums of money so awarded and ordered to be paid as aforesaid.

XXII. *And be it further enacted by the authority aforesaid*, That the father and grandfather, mother and grand mother (being of sufficient ability) of any poor, blind, lame or decrepid person or persons whomsoever, not being able to maintain himself or herself, and becoming chargeable to any city or town within this State, and the children and grandchildren (being of sufficient ability) of every poor, old, blind, lame or impotent person not being able to maintain himself or herself, and becoming chargeable as aforesaid, shall severally and respectively, at his, her or their charges and expenses, relieve and maintain every such poor person as aforesaid, in such manner as the Justices of the Peace of the city or county where such sufficient person shall dwell, at their General Sessions of the Peace shall order and direct, on pain of forfeiting and paying *ten shillings* for each person so ordered to be relieved, for every week, he, she or they shall fail therein; to be sued for and recovered with costs of suit by the overseers of the poor of the city or town to which such poor person or persons shall be chargeable, for the use of the poor of such city or town, in the manner herein before directed with respect to costs and charges upon an appeal.

And whereas it sometimes happens that persons run away or abscond from their places of abode and legal settlement, and leave their wives and families a charge to the city or town, in which they are settled, although such persons have some estate, real or personal whereby such city or town might be eased in whole or in part. *Therefore*,

XXIII. *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the overseers of the poor of any city or town within this State, where any father or husband shall run away or absent himself from his wife or children, or where any widow shall run away or absent herself from her child or children, and leave him, her or them, a charge to such city or town, to apply to any two Justices of the Peace of the city or county where such estate, real or personal, or any part thereof may be, and by warrant under the hands and seals of the said two Justices (who are hereby authorized and required to issue the same) to take and seize the goods and chattels and to let-out and receive the annual rents and profits of the lands and tenements of such father, husband or mother so absconding as aforesaid, for and towards the maintaining, bringing up and providing for such wife, child or children so left as aforesaid, and so soon as the said seizure shall be allowed of and confirmed by the Justices in their General Sessions of the Peace it shall and may be lawful for the said overseers of the poor or any two of them from time to time, and as often as the case may require, to sell and dispose of so much and so many of the said goods and chattels at Public Vendue to the highest bidder and to receive the said rents and profits, or so much thereof as shall be ordered by the said Sessions, and to apply the money arising thereby towards the maintenance of such poor family or person so left as aforesaid. *And further*, That the said overseers of the poor shall be accountable to the Justices of the Peace in their said General

Sessions for all such monies as shall or may arise by every such sale or sales, or to be received by them for the rents and profits of such lands and tenements.

XXIV. *And be it further enacted by the authority aforesaid,* That the majority of the freeholders and inhabitants who shall be assembled at the annual town meetings in each respective town in the several counties of this State, shall and may determine and agree upon such sum and sums of money, as they may think proper for the purpose of maintaining and supporting the aged and other poor in their respective towns in the ensuing year; of which sum or sums of money so agreed upon to be raised, each respective town clerk shall make full and proper entries in the town book by him to be kept, and shall, as soon as conveniently may be deliver a true copy of such entry, certified under his hand to the supervisor of the said town, and the said supervisor is hereby required to lay the same before the supervisors of the county at their then next meeting in order that the said sum may be raised in such town for the support and maintenance of the poor thereof.

Inhabitants at their annual town-meetings to determine what sum shall be raised for the support of their poor.

Which the clerk of the town shall notify the supervisors of, that he may lay the same before the supervisors of the county.

XXV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the cities of Albany and Hudson respectively, in Common Council convened, yearly and every year to determine and agree upon such sum and sums of money, as they may respectively think proper for the purpose of maintaining and supporting the aged and other poor in the said cities respectively in the ensuing year; of which respective sums of money so agreed upon to be raised, the town clerk of each of the said cities respectively shall make a full and proper entry in the minutes of the said Common Council, and shall, as soon as conveniently may be, deliver a true copy of such entry, certified under his hand, to a supervisor of such respective city, who is hereby required to lay the same before the supervisors of the county, at their then next meeting, in order that the said sum may be raised in such respective city, for the support and maintenance of the poor thereof.

Mayor, Aldermen, &c. of Albany and Hudson yearly to determine what sum shall be raised to support the poor.

Which shall be laid before the supervisors of the county in order to their directing the same to be raised.

XXVI. *And be it further enacted by the authority aforesaid,* That when and as often as any poor person belonging to any city or town within this State, shall apply for relief to any overseer or overseers of the poor of such city or town, the said overseer or overseers of the poor shall make application to a Justice of the Peace of such city or of the county in which such town shall lie, which said Justice and overseer or overseers of the poor shall enquire into the state and circumstances of the person so applying as aforesaid, and if it shall appear to the said Justice and overseer or overseers of the poor, that such person is in such indigent circumstances as to require relief, then the said Justice shall give an order in writing to the said overseer or overseers of the poor to make such allowance weekly or otherwise, to every such poor person, as they in their discretion shall think his or her necessities shall or may require: And the said overseer or overseers of the poor shall make no other or further allowance to such poor person than what by the said order shall be directed; which said order shall be a sufficient voucher for the payment of so much money by the said overseer or overseers of the poor, and shall be allowed in adjusting his or their accounts.

Duty of the overseers when any poor person applies for relief.

XXVII. *And be it further enacted by the authority aforesaid,* That the overseers of the poor of each respective city or town within this State, shall procure at the public charge, a book of good paper and well bound, wherein the names of all poor persons applying for relief and being ordered to be relieved as aforesaid, shall be registered, with the day and year when they were first admitted to have relief, the weekly or other sum or sums of money allowed by the order for their relief, and the cause of such necessity, and that no person shall be entered into the poor-books, or receive relief from the overseers of the poor, or any of them, without such order procured as aforesaid; and in case any overseer or overseers of the poor shall enter into the poor books and relieve any such poor person or persons, without such order, he or they shall forfeit and lose all such money and goods paid and distributed, to such poor person or persons, nor shall any allowance be made to him or them for the same, in passing his or their account or accounts; and the said overseers of the poor are hereby directed and required to enter or to cause to be entered in the said poor-books, all monies received, laid out and disbursed by them respectively for the use of the poor,

Overseers to procure a book for registering the names of persons applying for relief; the times when relieved, the sums allowed, &c. &c.

Overseer making any allowance without a proper order to forfeit the same.

Overseers yearly to lay their books of accounts before certain persons.

Overseers authorised to bind out poor children by indenture, and to take care they are not ill used.

Overseers of the poor with the consent of their towns to build, purchase or hire houses for the accommodation of the poor.

And to purchase proper materials for setting the poor to work, to appoint keepers, and to strike off the list of the poor such as refuse to be kept in such houses.

Any two towns may join together in building, purchasing, or hiring such house, purchasing materials, &c.

and also all matters and things which shall be transacted by them relating to their said office. And the overseers of the poor for the cities of Albany and Hudson respectively, shall yearly, once in every year lay such books of accounts before the Common Council of the said cities respectively, at such times as the said respective Common Councils shall direct. And the overseers of the poor of every town shall yearly and every year on the last Tuesday in March, lay their said books of accounts before the town-clerk and supervisor of such town, and such Justice or Justices of the Peace as may reside in such town, or the major part of them, for their examination, who shall examine and audit the same, and make report thereof to the freeholders and inhabitants of their respective towns, at their next annual town meeting, that such further provision for the maintenance and support of the poor may be made, as may be found necessary.

XXVIII. *And be it further enacted by the authority aforesaid,* That in all indentures and contracts to be made by any overseers of the poor of any city or town, by and with the consent of the Justices of the Peace of the county, or any two of them, or by and with the consent of the Mayor, Recorder and Aldermen, or any two of them, in any city, for binding or putting out any child as an apprentice or servant, shall among the covenants in such indentures or contracts to be made and agreed upon between the parties, always insert a clause to the following effect, "That every master and mistress to whom such child shall be bound as aforesaid, shall cause such child to be taught and instructed to read and write." *And further,* That the overseers of the poor for the time being, of each respective city and town, shall be the guardians of every such child so put and bound out as aforesaid, to take care that the terms of the indentures or contract, and the covenants and agreements therein contained be performed and fulfilled, and that such child be not ill used; and the said overseers of the poor are hereby empowered and directed to enquire into the same, and to redress any grievance or grievances, in such manner as is prescribed by law.

And for the greater ease of the public in relief of the poor,

XXIX. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for the overseers of the poor of the cities of Albany and Hudson, by and with the consent of the Common Council of the same cities respectively, and for the overseers of the poor of any town within this State, and any two or more Justices of the Peace of the county in which such town shall lie, with the consent and approbation of the major part of the freeholders and inhabitants of such town, to be signified at such annual town meeting as aforesaid, and at the proper charge of such city or town, to be ascertained, assessed and levied as aforesaid, to build, purchase or hire, some fit and convenient dwelling house or houses in such city or town, for the lodging and accommodation of the poor thereof; and also to purchase necessary materials for setting such poor persons to work, and there to keep, maintain and employ all and every such poor person, and to take the benefit of the work, labour and services of any such poor person who shall be kept and maintained in any such house, for the better maintenance and relief of such poor persons, who shall be there kept and maintained, and thereof to appoint, such person or persons as keeper or keepers, from time to time, as they shall think proper; and in case any poor person, claiming relief of any city or town within this State, where such house or houses shall be so built, purchased or hired, shall refuse to be lodged, kept to work and maintained, in such house or houses, such poor person or persons so refusing shall be put out of the book in which the names of the poor are by this act directed to be registered, and shall not be entitled to ask or receive any relief from the overseers of the poor of any such city or town. *And further,* That where any town may be too small to build, purchase or hire such house or houses as aforesaid, it shall be lawful for the overseers of the poor and Justices of the Peace, with the consent and approbation of the major part of the freeholders and inhabitants of two or more towns within any county in this State, to be signified at such annual town meetings as aforesaid, to join together and unite in building, purchasing or hiring such house or houses, for the lodging, keeping and maintaining of the poor of such towns, so joining together, and uniting; and also to purchase necessary materials for setting such poor persons to work, and there to keep, maintain and employ all and every such poor person, and

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to take the benefit of the work, labour and services of any such poor person who shall be kept and maintained in any such house, for the better maintenance and relief of the poor there to be kept, maintained and employed; and thereof to appoint such person or persons, as keeper or keepers from time to time, as they shall think proper; and in case any poor person or persons claiming relief of any such united towns as aforesaid, shall refuse to be lodged, kept to work, and maintained in the house or houses so to be built, purchased or hired for such united towns as aforesaid, such poor person or persons so refusing shall be put out of the book in which the names of the poor are by this act directed to be registered as aforesaid, and shall not be entitled to ask or receive any relief from the overseers of the poor of any such town. *And further,* That it shall and may be lawful for the overseers of the poor and Justices of any town within this State, with the consent and approbation of the major part of the freeholders and inhabitants of such town, where such house or houses shall be built, purchased or hired for the purposes aforesaid, to be signified at such annual town-meeting as aforesaid, to contract with the overseers of the poor and Justices of any other town for the lodging, maintaining and employing of any poor person or persons belonging to such other town, as to them shall seem meet: And in case any such poor person or persons belonging to any other town, shall refuse to be lodged, maintained and employed in such house or houses so contracted for as aforesaid, such poor person or persons so refusing shall be put out of the book in which the names of the poor are by this act directed to be registered as aforesaid, and shall not be entitled to ask or receive any relief from the overseers of the poor of any such town.

Overseers of the poor of any town where such house is provided may contract with the overseers of any other town for the maintaining and lodging their poor.

And any poor person refusing to be so maintained and lodged to be put out of the book, &c.

XXX. *And be it further enacted by the authority aforesaid,* That the overseers of the poor of each respective city and town in this State, shall annually, within fifteen days after the termination of their respective offices, exhibit to the succeeding overseers of the poor of such city or town a particular, full, just, and true account of all the monies by them respectively received and expended for the use of the poor, and from whom, to whom and in what manner, and for what use or uses, together with an account of the earnings of the poor persons by them employed; which accounts the said overseers of the poor for the time being, together with the supervisor or supervisors of such city or town and Justices of the Peace residing in such city or town, or the major part of them, shall as soon as conveniently may be, examine and audit; and the said overseers of the poor so going out of office, shall respectively, on auditing such account pay all such ballance and sums of money as shall appear to be in his or their hands, or due from him or them, to such city or town, to their successors in office, to be applied and accounted for by them in the course of the next year, in the like manner as is herein before prescribed; and such overseers of the poor so going out of office, shall at the same time of exhibiting their accounts, deliver up to their successors in office, all books of account, registers and other papers, relating to the poor as aforesaid, and if any overseer or overseers of the poor shall refuse or neglect to exhibit such account or accounts as aforesaid, and to pay to his or their successors in office, such monies as shall remain in his or their hands as aforesaid, or to deliver up all such books of accounts, registers and other papers relating to the poor as aforesaid, every such overseer of the poor so neglecting or refusing, shall for every such neglect or refusal, forfeit and pay the sum of *one hundred pounds*, over and above the said ballance remaining in his or their hands, to be recovered with costs of suit, in any Court of Record within this State, by the overseers of the poor of such city or town for the time being, and when recovered to be applied to the use of the poor of such city or town; and if upon auditing such account there shall appear to be a ballance due to such overseers of the poor so going out of office as aforesaid, or to either of them, the same shall be paid to him or them by their successors in office, out of the first monies which shall come into their hands as overseers of the poor of such city or town.

Overseers yearly to deliver an exact account of monies, &c. received and expended to their successors, and to deliver up all books, papers, monies, &c. which they have in their hands.

And for neglect or refusal to forfeit one hundred pounds

If a ballance is due to the overseer going out of office, his successor to pay it.

XXXI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the overseers of the poor for the time being, of each respective city and town to recover against their predecessors in office, and each of them, their executors or administrators, all such sums of money as shall appear, upon such audit as aforesaid, to

Overseers to recover from their predecessors in office or any of them any monies due by them to their town.

to be due from them respectively, to such respective city or town, in an action for monies had and received to the use of such city or town, with costs of suit, in any court having cognizance thereof; or to have and maintain an action or actions of account against any former overseer or overseers of the poor of such city or town, his or their executors or administrators: And no such action shall be abated or discontinued by the death or expiration of the office of any such plaintiff or plaintiffs, but shall and may be continued and prosecuted to effect, by the survivor or survivors of them, and their successors in office; and such suit shall always be brought and prosecuted by and in the name of the overseers of the poor of such city or town for the time being.

Masters of vessels to enter with the Mayor or Recorder the names of all persons coming into port in their vessels, or on neglect thereof to pay a penalty.

XXXII. *And be it further enacted by the authority aforesaid,* That every master of any ship or other vessel who shall enter his ship or other vessel in the Custom-House of this State in the city of New-York, shall within twenty four hours after his arrival, make a report in writing, on oath, to the Mayor of the said city, or in case of his sickness or absence, to the Recorder of the said city for the time being, of the names and occupations of every person who shall be brought into port, in his said ship or other vessel; and in case of neglect, the master of such ship or other vessel, shall forfeit the sum of *twenty pounds* for every person so neglected to be reported. *And further,* That if any person so neglected to be reported to the Mayor or Recorder of the said city as aforesaid, shall be a foreigner, the master of such ship or other vessel so neglecting to make report as aforesaid, shall forfeit the sum of *thirty pounds* for every foreigner so neglected to be reported. *And further,* That if any householder shall entertain in his or her house or family, any such foreigner, and not report the same to the Mayor, or in case of his absence or sickness, to the Recorder of the said city for the time being, within twenty four hours after he or she shall receive such foreigner into his or her house or family, he or she shall forfeit the sum of *five pounds*; which said respective forfeitures, shall and may be recovered by action of debt, with costs of suit, in any court within this State, having cognizance thereof, by any person or persons who shall sue and prosecute for the same to effect, the one half of which forfeitures, when recovered, to be paid to the treasurer or chamberlain of the said city, for the use of the poor thereof, and the other half to the person or persons who shall sue and prosecute for the same to effect as aforesaid.

Any master of any ship importing any person who is likely to become a charge, to carry him back again in one month, or enter into bond that he shall not become so chargeable as aforesaid.

XXXIII. *And be it further enacted by the authority aforesaid,* That if any master of any ship or other vessel shall bring or land within this State, any person who cannot give a good account of himself or herself, to the Mayor or Recorder of the said city for the time being as aforesaid, or who is like to be a charge to the said city, such master shall within one month, carry or send the person so imported by him, back again to the place from whence he or she came, and shall for that purpose enter into bond to the Mayor, Aldermen and Commonalty of the city of New-York, with one or more surety or sureties, to be approved of by such Mayor or Recorder, in the sum of *one hundred pounds*, conditioned for the purposes aforesaid, or shall enter into bond to the said Mayor Aldermen and commonalty of the said city, with one or more sufficient surety or sureties to be approved by such Mayor or Recorder as aforesaid, in the sum of *one hundred pounds*, conditioned that the person so imported shall not be or become a charge to the said city as aforesaid, or any other city or town in this State; and in case such master of any ship or other vessel shall refuse to become bound as aforesaid, it shall and may be lawful for such Mayor or Recorder, by warrant under his hand and seal, directed to any constable of the said city, to cause such person so refusing, to be committed to the common gaol of the said city, there to remain until he shall consent to become bound as aforesaid; and such bond shall not be avoided by plea of duress.

And in case such master refuses to become bound he shall be committed to gaol.

Mayor, Aldermen, &c. of New-York to appoint 12 or more commissioners of the Alms-house and Bridewell.

XXXIV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the city of New-York, in Common Council convened, to nominate and appoint under the common seal of the said city, twelve or more of the freeholders and inhabitants of the said city, to be overseers of the poor thereof, by the name and stile of "The Commissioners of the Alms-House and Bridewell of the city of New-York," which said persons being so appointed or the major part of them, shall have the same power and authority of overseeing and providing

With full powers to provide for the poor of the city.

providing for the poor of the said city, and they, or any two of them, shall have the same power and authority for putting or binding out apprentices and servants in the said city and be subject to the same duties and penalties, which the overseers of the poor in the respective towns in this State, have, or are subject to by this act.

XXXV. *Provided always, and be it further enacted by the authority aforesaid,* That all monies to be raised and collected in the said city for the maintenance and support of the poor, and all fines and forfeitures to be incurred in the said city by virtue of this act, and which by this act are made payable to the overseers of the poor for the use of the poor of any city or town, shall be paid into the hands of the Treasurer or Chamberlain of the said city for the time being, and shall be applied and disposed of in such proportions, and from time to time as the Mayor, Aldermen and Commonalty of the same city, in Common Council convened, by warrant under the hand of the Mayor or Recorder of the said city, presiding in such Common Council, shall direct and appoint; any thing in this act contained to the contrary notwithstanding.

The monies raised for the support of the poor of said city, to be paid to the Chamberlain, and applied as the common Council shall direct.

XXXVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Common Council of the said city, to remove from office any person or persons so by them to be appointed as aforesaid, for any neglect of duty or mal-conduct in office; and also in manner aforesaid, from time to time, to fill all vacancies which shall be occasioned by such removal, or by death or resignation; and also from time to time, to make and ordain such ordinances and regulations as they shall think necessary for the better government of the Alms-House and Bridewell of the said city, and the keepers, officers and servants thereof.

Who are empowered to remove from office any person appointed as Commissioner as aforesaid, and put others in their stead.

XXXVII. *And be it further enacted by the authority aforesaid,* That in all cases where any of the present poor in any county of this State are maintained by the whole county, of by more than one town, such poor persons shall continue to be so maintained; any thing in this act contained to the contrary notwithstanding.

Poor persons how maintained by a whole county, continue to be so maintained.

XXXVIII. *And be it further enacted by the authority aforesaid,* That all former acts and laws of the late colony of New-York, and of this State, relating to the settlement and relief of the poor, and every matter, article and thing therein contained, be, and the same hereby are severally repealed. *Provided always,* That if any person hath by virtue of any act or acts of the late colony of New-York, or of this State, gained a settlement in any city or town in this State, such settlement shall not be altered by any thing in this act before contained. *Provided also,* That all and every sum and sums of money heretofore directed to be raised for the support of the poor in any city or town, shall be raised and collected in the same manner as if this act had not been made.

All former acts relating to the settlement of the poor repealed.

This act however not to alter any settlement already gained.

C H A P. LXIII.

An ACT for dividing this State into Counties. Passed the 7th of March 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the State of New-York shall be and hereby is divided into sixteen counties, to be called by the names of New-York, Albany, Suffolk, Queens, Kings, Richmond, West-Chester, Orange, Ulster, Dutchess, Columbia, Washington, Clinton, Montgomery, Cumberland and Gloucester.

The State divided into sixteen counties and their names.

II. *And be it further enacted by the authority aforesaid,* That the bounds and limits of the said several counties shall be as follows.

The county of New-York to contain the islands called Manhattans-Island, Great Barn-Island, Little Barn-Island, Mannings-Island, Nutton-Island, Bedlows-Island, Bucking-Island, and the Oyster-Islands, and all the land under the water within the following bounds; beginning at Spyten-Duvel Creek where the same empties itself

Bounds of the county of New-York.

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into Hudsons-River, on the Westchester side thereof, at low-water mark, wherever the same now is or hereafter may be, and so running along the said creek at low-water mark as aforesaid on the Westchester side thereof, unto the East-River or Sound, and from thence to cross over to Nassau-Island, to low-water mark there as aforesaid, including Great Barn-Island, Little Barn-Island and Mannings-Island, and from thence along Nassau-Island shore, at low-water mark as aforesaid unto the south side of the Red-Hook, and from thence across the North-River, so as to include Nutten-Island, Bedlows-Island, Bucking-Island, and the Oyster-Islands, to low-water mark on the west side of Hudson's-River, or so far as the bounds of this State extend there, and so up along the west side of Hudson's-River, at low-water mark, or along the limits of this State, until it comes directly opposite the first mentioned creek, and thence to the place where the said boundaries first began.

Bounds of the County of Albany.

The county of Albany to contain all that part of this State, beginning at the most northerly end or part of Wanton-Island in Hudson's-River, and running from thence to the head of Kaater's Creek or Kill, where the same issues out of the southerly side or end of a certain lake or pond lying in the Blue Mountains; from thence to a small lake called Utlayantho, and thence north twenty-five degrees east until it intersects a west line drawn from the north-west corner of old Schoharie patent, thence east to the north-east corner of the said Schoharie patent, thence to the north-west corner of the township of Duaneburgh, thence along the north bounds thereof to the north-east corner of the same, thence on the same course with the said north bounds of Duaneburgh to the Mohawk-River, thence north until it intersects a west line drawn from Fort-George near Lake-George, thence east to the east side of the most easterly branch of Hudson's-River, thence down along the middle of the said branch of Hudson's-River to Batten-Creek, thence up along the middle of the said creek until it intersects the south bounds of a patent called Princetown, thence along the same to the south-east corner thereof, thence east to the west bounds of the county of Cumberland, then southerly along the same to the north bounds of Massachusetts, thence along the same westerly and southerly to the north bounds of the county of Columbia, which is an east line from the southrenmost part of Bearen-Island in Hudson's-River, and thence along the bounds of the county of Columbia west to Hudson's-River, and thence continuing the same course to the middle of the river, and thence down the middle of the river until it comes due east from the north end of Wanton-Island aforesaid, and thence to the place of beginning, including Bearen-Island aforesaid.

Bounds of the county of Suffolk.

The county of Suffolk to contain all that part of this State bounded easterly and southerly by the Atlantic-Ocean, northerly by the Sound, and westerly by Lloyd's-Neck or Queen's-Village, Cold-spring-Harbour and the east bounds of the township of Oyster-Bay, and the same line continued due south to the Atlantic-Ocean, including the Isle of Wight now called Gardiner's-Island, Fisher's-Island, Shelter-Island, Plumb-Island, Robin's-Island, and the Gull-Islands.

The bounds of Queen's county.

The county of Queen's to contain all that part of this State, bounded easterly by Suffolk-County, southerly by the Atlantic-Ocean, northerly by the Sound, and westerly by the west bounds of the township of Newtown and Jamaica, including Lloyd's-Neck or Queen's-Village, and the Islands called the Two-Brothers and Hallet's-Island, and all islands in the Sound opposite to the said bounds and southward of the main channel.

Bounds of King's county.

The county of King's to contain all that part of this State, bounded easterly by Queen's-County, northerly by the county of New-York, westerly partly by Hudson's-River and partly by the Ocean, and southerly by the Atlantic-Ocean, including Coney-Island.

Bounds of Richmond county.

The county of Richmond to contain all Staten-Island, Shooter's-Island, and the islands of meadow on the west side thereof.

Bounds of the county of Westchester.

The county of Westchester to contain all that part of this State, bounded southerly by the Sound, easterly by the State of Connecticut, northerly by the north bounds of the manor of Cortland, and the same line continued east to the bounds of Connecticut, and west to the middle of Hudson's-River, and westerly by a line running from thence down the middle of Hudson's-River until it comes opposite to the bounds of the State of

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of New-Jersey, then west to the same, then southerly along the east bounds of the State of New-Jersey, to the line of the county of New-York, and then along the same easterly and southerly to the Sound, or East-River, including Captain's-Island, and all the Islands in the Sound to the east of Frog's-Neck, and to the northward of the main channel.

The county of Orange to contain all that part of this State bounded southerly by the State of New-Jersey, westerly by the state of Pennsylvania, easterly by the middle of Hudson's-River, and northerly by an east and west line from the mouth of Murderers-Creek.

Bounds of Orange county.

The county of Ulster to contain all that part of this State bounded easterly by the middle of Hudson's-River, southerly by the county of Orange, westerly by the State of Pennsylvania, and the west branch of Delaware river, and northerly by the county of Albany.

Bounds of Ulster county.

The county of Dutchess to contain all that part of this State bounded easterly by the State of Connecticut, southerly by the county of Westchester, westerly partly by the county of Orange, and partly by the county of Ulster, and northerly by the manor of Livingston, including the whole of the Oblong to the northward of the county of Westchester.

Bounds of Dutchess County.

The county of Columbia to contain all that part of this State bounded southerly by the county of Dutchess, westerly by the counties of Ulster and Albany, northerly by the county of Albany and easterly by the county of Dutchess and the State of Massachusetts.

Bounds of the county of Columbia.

The county of Cumberland to contain all that part of this State beginning on Connecticut river at the north bounds of the State of Massachusetts, and extending westward along the same until such line shall meet with and be intersected by a line proceeding on a course, south ten degrees west from the north-west corner of a tract of land granted under the Great Seal of the late colony of New-York, on the fourth day of September, one thousand seven hundred and seventy, to James Abeel and nine other persons, and extending from the said point of intersection, north ten degrees east, until such line shall meet with and be intersected by another line, to be drawn on a course north, sixty degrees west from the south-west corner of a tract of land granted under the Great Seal of the late colony of New-York on the thirteenth day of November in the year of our Lord one thousand seven hundred and sixty-nine, and erected into a township by the name of Royalton, and running from the last mentioned point of intersection south sixty-six degrees east to Connecticut river, and so down along the same river to the place of beginning.

Bounds of the county of Cumberland.

The county of Gloucester to contain all that part of this State bounded southerly by the north bounds of the county of Cumberland, easterly by the east bounds of this State, northerly by the north bounds of this State, and westerly by a line to bedrawn from the north-west corner of the said county of Cumberland, on a course north ten degrees east until such line shall meet with and be intersected by another line proceeding on an east course from the south bank of the mouth of Otter-creek, and from the said last mentioned point of intersection running north fifty degrees east to the north bounds of this State.

Bounds of the county of Gloucester.

The county of Washington to contain all that part of this State bounded southerly by the county of Albany, easterly by the counties of Cumberland and Gloucester, northerly by a line beginning at the most northerly point of the rock commonly called Rogers's Rock, situate on the west side of Lake George, and thence due west to the county of Montgomery, and running also from the said rock due east to the west bounds of the county of Gloucester, and westerly by the counties of Albany and Montgomery.

Bounds of the county of Washington.

The said county of Clinton to contain all that part of this State, bounded northerly by the north bounds of this State, easterly by the county of Gloucester, southerly by the county of Washington, and westerly by the easterly line of the county of Montgomery, which is the line of the county of Albany that runs north from the Mohawk River, continued to the north bounds of this State.

Bounds of the county of Clinton.

And

Bounds of the county of Montgomery.

Said bounds not to affect the titles of individuals or bodies politic.

Freeholders of Clinton county to vote for Governor, &c. as if this act had not passed, till after the first census.

And the supervisors of said county and the county of Washington, when and where to meet together to canvas the votes, and how.

Courts of General Sessions, and Courts of Common Pleas in the county of Clinton, when and where to be held.

Proviso.

And the county of Montgomery to contain all that part of this State bounded easterly by the counties of Ulster, Albany, Washington and Clinton, southerly by the State of Pennsylvania, and westerly and northerly by the west and north bounds of this State.

Provided always, That the lines or boundaries so assigned as aforesaid for the limits of any of the said counties shall not, nor shall any or either of them be deemed to take away, abridge, destroy or affect the right or title of any person or persons, bodies politic or corporate, in any manner or by any means whatsoever.

III. *And be it further enacted by the authority aforesaid,* That until the first Census be taken pursuant to the constitution of this State, it shall and may be lawful for the freeholders and inhabitants of the said county of Clinton to vote in all elections for Governor, Lieutenant-Governor, and Members for Senate and Assembly, in like manner as they might have done if this act had not passed: And that the supervisors of the said county of Clinton shall yearly meet with the supervisors of the said county of Washington on the last Tuesday of May in every year, until the said Census shall be taken as aforesaid at Salem where the court is then holden in the county of Washington, and shall in conjunction with the supervisors of the said county of Washington proceed to open the inclosures delivered to the clerks of the said counties, and canvass and estimate the votes therein contained, and shall in all things conform to the directions of the act, entitled, "An act for regulating elections." Passed the 13th of February 1787. And in case the said supervisors of the said counties of Washington and Clinton, or a majority of them, shall not meet as aforesaid on the last Tuesday of May in any year, then the clerks of the said counties respectively shall give notice thereof to, and the Judges and Assistant Justices of the Courts of Common Pleas for the said counties shall meet together at Salem in the said county of Washington, and act in all respects as the clerks and Judges, and Assistant Justices of the Courts of Common Pleas of the several counties in this State are respectively directed to do in and by the said act.

IV. *And be it further enacted by the authority aforesaid,* That there shall be held in and for the county of Clinton, a Court of Common Pleas and a Court of General Sessions of the Peace, at the town of Plattsburgh; and that there be in the said county of Clinton two terms in every year, to commence and end on the days following, to-wit, the first term to commence on the fourth Tuesday of October, and to end on the Saturday following; the second term to commence on the third Tuesday in April, and to end on the Saturday following.

Provided, That in any of the terms aforesaid the court may adjourn previous to the day assigned, if the business of the court will admit: and that the first Court of Common Pleas and General Sessions of the Peace in the said county shall be held on the fourth Tuesday of October next ensuing.

C H A P. LXIV.

An ACT for dividing the Counties of this State into Towns. Passed the 7th of March 1788.

Southold township.

East-Hampton township.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all that part of the county of Suffolk now called and known by the name of Southold, including Fisher's-Island, Plumb-Island, Robins-Island, the Gull-Islands, and all that part of the manor of St. George on the north side of Peaconock, extending westward to the east line of Brookhaven shall be and hereby is erected into a town by the name of South-Old.

And that all that part of the said county of Suffolk now called East-Hampton including Montaack and the Isle of Wight now called Gardners-Island shall be and hereby is erected into a town by the name of East-Hampton.

And

And that all that part of the said county of Suffolk, now called and known by the name of South-Hampton, including Bridge-Hampton, heretofore called Saggaboneck and Mecoxe, shall be and hereby is erected into a town by the name of South-Hampton.

And that all that island called Shelter-Island in the county of Suffolk, shall be and hereby is erected into a town by the name of Shelter-Island.

And that all that part of the said county of Suffolk called Huntington, including Eaton's-Neck and Crab-Meadow, shall be and hereby is erected into a town, by the name of Huntington.

And that all that part of the said county of Suffolk bounded southerly by the Atlantic-Ocean, westerly by Huntington, northerly by Smith-Town and Winecomick, and easterly by the east bounds of the lands formerly belonging to William Nicoll, near Blue-Point, shall be and hereby is erected into a town by the name of Islip.

And that all that part of the said county of Suffolk, bounded southerly by Islip, westerly by Huntington, northerly by the Sound, and easterly by the patent of Brook-Haven, including Winne-Commick, shall be and hereby is erected into a town, by the name of Smith-Town.

And that all that part of the said county of Suffolk, bounded westerly by Smith-Town and Islip, northerly by the Sound, easterly by South-Hold and South-Hampton, and southerly by the Atlantic-Ocean, shall be and hereby is erected into a town by the name of Brook-Haven.

And that all that part of Queen's-County, now called and known by the name of Oyster-Bay, including Lloyd's-Neck or Queen's Village and Hog-Island, and extending on the south to the Atlantic-Ocean, shall be and continue a town by the name of Oyster-Bay.

And that all that part of Queen's-County, bounded easterly by Oyster-Bay, southerly by the Atlantic-Ocean aforesaid, westerly by Jamaica, and northerly by the country road leading from Jamaica nearly through the middle of the great Plains, commonly called Hempstead-Plains, to the east part thereof, including the lands called the Gore, between the patent of Hempstead and the patent of Oyster-Bay, shall be and continue a town by the name of South-Hempstead.

And that all that part of Queen's-County aforesaid, bounded easterly by Oyster-Bay, southerly by South-Hempstead, westerly by Flushing, and northerly by the Sound, shall be and continue a town by the name of North-Hempstead.

And that all that part of Queen's-County aforesaid, now called and known by the name of Flushing, shall be and continue a town by the name of Flushing.

And that all that part of Queen's-County aforesaid, now called and known by the name of Jamaica, shall be and continue a town by the name of Jamaica.

And that all that part of Queen's-County aforesaid, now called and known by the name of New-Town, including all the islands in the sound opposite to the same and comprehended in Queen's-County, shall be and continue a town by the name of New-Town.

And that all that part of King's-County, now called and known by the name of Brooklyn, shall be and continue a town by the name of Brooklyn.

And that all that part of King's-County aforesaid, now called and known by the name of Bushwick, shall be and continue a town by the name of Bushwick.

And that all that part of King's-County aforesaid, now called and known by the name of Flatlands or Amesford, shall be and continue a town by the name of Flatlands.

And that all that part of King's-county aforesaid, now called and known by the name of Flatbush, including the tract of land called New-Lots, shall be and continue a town by the name of Flatbush.

And that all that part of King's-County aforesaid, now called and known by the name of Gravesend, including Coney-Island and all the islands south of the said town, shall be and continue a town by the name of Gravesend.

And that all that part of King's-County aforesaid, now called and known by the name of New-Utrecht, shall be and continue a town by the name of New-Utrecht.

M m

And

Castle-Town.

And that all that part of the county of Richmond, bounded northerly by Kill-Van-Cull, easterly by Hudson's-River, southerly by the road leading from Van Duerfon's Ferry southward of the watering-place to Richmond-Town and Westerly, by a line beginning at the mouth of Dongan's mill-creek, and running from thence along the line of the manor of Castle-Town, to the road at the rear of the patent of Corfen and company, thence along the northerly side of the said road, westerly to the road leading to Haughwout's mill, and then southerly along the westerly side of the last mentioned road as it runs along by Richard Conner's to the tavern called the Rose and Crown on the said road leading to Richmond-Town, shall be and hereby is erected into a town by the name of Castle-Town.

Southfield.

And that all that part of the said county of Richmond, bounded northerly by the north side of said road leading from Van Duerfon's ferry to Richmond-Town and the Fresh-Kill, easterly by Hudson's-River, southerly by the Bay, and westerly by a line beginning on the Fresh-Kill at the north-west corner of the land and meadow late of James Egberts, and running from thence southerly along the same to Egbert's-Lane, and then along the same lane to the road called the New-Road, and then along the same New-Road westerly to the land of Henry Perine, and then southerly along his easterly bounds to the Bay, shall be and hereby is erected into a town by the name of Southfield.

Westfield.

And that all that part of the said county of Richmond, bounded northerly by the Fresh-Kill, easterly by Southfield, southerly by the Bay, and westerly by the Sound, shall be and hereby is erected into a town by the name of Westfield.

Northfield.

And that all the residue of the said county of Richmond, shall be and hereby is erected into a town by the name of Northfield.

Westchester.

And that all that part of the county of Westchester, bounded easterly by the Sound, and the land granted to Thomas Pell, called the manor of Pelham, southerly by the Sound, westerly by the county of New-York, and northerly by the north bounds of the manor of Fordham, and the north bounds of the land called the Borough-Town of Westchester, including the islands in the sound lying south thereof and in the county of Westchester, excepting thereout that tract of land commonly called Morriffania, shall be and hereby is erected into a town by the name of Westchester.

Morriffania.

And that all that tract of the said county of Westchester, commonly called and known by the name of Morriffania, shall be and hereby is erected into a town by the name of Morriffania.

Yonkers.

And that all that part of the county of Westchester, bounded easterly by Bronx-River, southerly by the town of Westchester, westerly by the county of New-York and Hudson's-River, and northerly by the north bounds of a tract of land called the Yonkers, shall be and hereby is erected into a town by the name of Yonkers.

Greenburgh.

And that all that part of the said county of Westchester, bounded easterly by Bronx-River, southerly by Yonkers, westerly by Hudson's-River, and northerly by a line beginning on the east side of Hudson's-River, at the south-west corner of the land lately conveyed by the Commissioners of Forfeitures for the southern district to Gerard G. Beckman, junr. and running from thence along the southerly and easterly bounds thereof to the farm of William David, and then along the southerly and easterly bounds of the said farm of the said William David, to the road leading to the White-Plains, and then easterly along the same road to Bronx-River, shall be and hereby is erected into a town by the name of Greenburgh.

Mount-Pleasant.

And that all that part of the said county of Westchester, bounded southerly by Greenburgh, westerly by Hudson's-River, and northerly and easterly by the north and east bounds of the manor of Philipsburgh shall be and hereby is erected into a town by the name of Mount-Pleasant.

Eastchester.

And that all that part of the said county of Westchester, bounded southerly by the town of Westchester, westerly by Bronx-River, northerly by the manor of Scarsdale and easterly by a brook that runs southerly into Eastchester creek, shall be and hereby is erected into a town, by the name of Eastchester.

Pelham.

And that all that part of the said county of Westchester, called and known by the name

name of Manor of Pelham, bounded southerly and easterly by the sound, northerly by the north bounds of the Manor of Pelham, including the island called the New-City-Island, Hart-Island and Appleby's-Island, and westerly by the town of Eastchester, shall be and hereby is erected into a town by the name of Pelham.

And that all that part of the said county of Westchester, called and known by the name of New-Rochelle, bounded southerly by the town of Pelham, easterly by the Sound, northerly by Mamaroneck and the Manor of Scarsdale, and westerly by the Manor of Scarsdale and Eastchester, including the island called Rodmans-Island, shall be and hereby is erected into a town by the name of New-Rochelle.

New-Rochelle.

And that all that part of the said county of Westchester, bounded westerly by Bronx River, southerly by the town of Eastchester, and New-Rochelle, easterly by the east bounds of the tract of land called the Manor of Scarsdale, and northerly by the north bounds of the said Manor of Scarsdale, shall be and hereby is erected into a town by the name of Scarsdale.

Scarsdale.

And that all that part of the said county of Westchester, bounded southerly by New-Rochelle, easterly by the Sound, northerly by Mamaroneck-River, and westerly by the town of Scarsdale, shall be and hereby is erected into a town by the name of Mamaroneck.

Mamaroneck.

And that all that part of the said county of Westchester, bounded easterly by Mamaroneck-River, northerly by North-Castle, westerly by Bronx-River, and southerly by the town of Scarsdale, shall be and hereby is erected into a town by the name of White-Plains.

White-Plains.

And that all that part of the said county of Westchester called and known by the name of Harrisons-Purchase, shall be and hereby is erected into a town by the name of Harrison.

Harrison.

And that all that part of the said county of Westchester, bounded southerly by the Sound, easterly by Connecticut and westerly by the town of Harrison and Mamaroneck-River, including Captains-Island and all the islands in the Sound lying south of the said bounds, shall be and hereby is erected into a town by the name of Rye.

Rye.

And that all that part of the said county of Westchester, bounded southerly by Mount-Pleasant, the White-Plains, the town of Harrison and Connecticut, easterly by Connecticut, Pound-Ridge and Bedford, northerly by the Manor of Cortlandt and Bedford, and westerly by Bronx-River and Mount-Pleasant, shall be and hereby is erected into a town by the name of North-Castle.

North-Castle.

And that all that part of the said county of Westchester formerly called and known by the name of the town of Bedford, shall be and hereby is erected into a town by the name of Bedford.

Bedford.

And that all that part of the said county of Westchester, bounded southerly by the State of Connecticut, easterly and northerly by Salem, and westerly by Bedford and Mahanus River, shall be and hereby is erected into a town by the name of Pound-Ridge.

Pound-Ridge.

And that all that part of the said county of Westchester, bounded northerly by a line beginning at a Monument in the line between this State and Connecticut, east of the north Long-Pond, and running westerly by the north side of the said pond and the south bounds of the land of Ezekiel Hawley, until it comes to the road leading over the mountain, and then crossing the same road and running northerly along the west side of the same road to the land of the said Ezekiel Hawley, and then westerly along the same to the west line of the Oblong, then northerly along the said Oblong line until it comes to the south line of the north lot number ten, of the Manor of Cortlandt, and then westerly along the south bounds of the said north lot number ten, and the south bounds of the north lots number nine and eight, to Croton-River, and then down the said river to Bedford, easterly and southerly by Connecticut, Pound-Ridge and Bedford, and westerly by Pound-Ridge, Bedford and Croton-River, shall be and hereby is erected into a town by the name of Salem.

Salem.

And that all that part of the said county of Westchester, bounded southerly by Salem, easterly by Connecticut, northerly by Dutchess-County and westerly by the middle

North-Salem.

dle of Croton-River, shall be and hereby is erected into a town by the name of North-Salem.

Cortlandt.

And that all that part of the said county of Westchester, bounded westerly by Hudson's-River, northerly by the county of Dutchess, easterly by north lot number two, and south lot number two of the manor of Cortlandt, and the same line continued to the south bounds of the manor of Cortlandt, and southerly by the south bounds of the manor of Cortlandt, shall be and hereby is erected into a town by the name of Cortlandt.

York-Town.

And that all that part of the said county of Westchester, bounded westerly by the town of Cortlandt, northerly by the county of Dutchess, easterly by north lot number five and south lot number five of the said manor of Cortlandt, and the same line continued to the south bounds of the said manor of Cortlandt, and southerly by the south bounds of the said manor of Cortlandt, shall be and hereby is erected into a town by the name of York-Town.

Stephen Town.

And that all that part of the said county of Westchester, bounded westerly by York-Town, northerly by the county of Dutchess, easterly by North-Salem, Croton-River and Bedford, and southerly by the south bounds of the manor of Cortlandt, shall be and hereby is erected into a town by the name of Stephen-Town.

Philips-Town.

And that all that part of the county of Dutchess, bounded southerly by the county of Westchester, westerly by Hudson's-River, northerly by the north bounds of the lands granted to Adolph Philipse, Esq. and easterly by the east bounds of the long lot number four, formerly belonging to Beverly Robinson, shall be and hereby is erected into a town by the name of Philips-Town.

Fredericks-Town.

And that all that part of the said county of Dutchess, bounded southerly by the county of Westchester, westerly by Philips-Town, northerly by the north bounds of the lands granted to Adolph Philipse, Esq. and easterly by the east bounds of the same patent, shall be and hereby is erected into a town by the name of Fredericks-Town.

South-East-Town.

And that all that part of the said county of Dutchess, bounded southerly by the county of Westchester, westerly by Frederick's-Town, northerly by the northern line of Frederick's-Town, continued to Connecticut, and easterly by Connecticut, shall be and hereby is erected into a town by the name of South-East-Town.

Fishkill.

And that all that part of the said county of Dutchess, bounded southerly by Philips-Town and Frederick's-Town, westerly by Hudson's-River, northerly by Wappinger's-Kill or creek, and easterly by the east bounds of Rombouts patent, shall be and hereby is erected into a town by the name of Fishkill.

Beekman.

And that all that part of the said county of Dutchess, bounded southerly by Frederick's-Town, westerly by Fishkill, northerly by the north bounds of the lands granted to Colonel Henry Beekman, and easterly by a line beginning at the house now or late of Daries Talman, near the Nine-Partners line, and running from thence to the house of William Clark, and from thence to the house of Nathaniel Lee, and from thence to the house of Caleb Lamb, and from thence south sixteen degrees west to Frederick's-Town, shall be and hereby is erected into a town by the name of Beekman.

Pawling.

And that all that part of the said county of Dutchess, bounded southerly by South-East-Town and Frederick's-Town, westerly by Beekman, northerly by the north bounds of the patent granted to Colonel Henry Beekman, continued to Connecticut, and easterly by Connecticut, shall be and hereby is erected into a town by the name of Pawling.

Poughkeepsie.

And that all that part of the said county of Dutchess, bounded easterly and southerly by Wappingers-Kill or creek, westerly by Hudson's-River, and northerly by the tract of land called the Great or Lower Nine-Partners, shall be and hereby is erected into a town by the name of Poughkeepsie.

Clinton.

And that all that part of the said county of Dutchess, bounded southerly by Poughkeepsie and Beekman, westerly by Hudson's-River, northerly and easterly by a line beginning at the east bank of Hudsons-River at the north-west corner of the tract of land called Pawlings-Patent, and running along the north line of the same patent to Crom-Elbow-Kill, otherwise called Fish-Creek, thence up along the said creek to the line

line of the tract of land called the Little or Upper Nine-Partners, thence easterly along the said line to the north-east corner of lot number one, so known and distinguished in the first division of the said tract of land, called the Great or Lower Nine-Partners, and then southerly in the line of that tier of lots to the north bounds of Beekman aforesaid, shall be, and hereby is erected into a town by the name of Clinton.

And that all that part of the said county of Dutchess, bounded southerly by Clinton, westerly by Hudson's-River, northerly by the county of Columbia, and easterly by the Little or Upper Nine-Partners, shall be, and hereby is erected into a town by the name of Rynbeck.

Rynbeck.

And that all that part of the said county of Dutchess, bounded southerly by the town of Beekman, westerly by Poughkeepsie and Clinton, northerly by the north bounds of a tract of land called the Lower or Great Nine-Partners, and easterly by the eastermost tier of lots laid out in the general division heretofore made of the said tract of land called the Lower or Great Nine-Partners, shall be and hereby is erected into a town by the name of Washington.

Washington.

And that all that part of the said county of Dutchess, bounded southerly by the town of Pawling, westerly by the town of Washington, northerly by the north bounds of the said Lower or Great Nine-Partners, and an east line from the north-east corner thereof to Connecticut, and easterly by Connecticut shall be and hereby is erected into a town by the name of Amenia.

Amenia.

And that all that part of the said county of Dutchess, bounded westerly by Rynbeck, northerly by the county of Columbia, easterly by Connecticut and southerly by the towns of Washington and Amenia, shall be, and hereby is erected into a town by the name of North-East-Town.

North-East-Town.

And that all that part of the county of Orange, bounded easterly by Hudson's-River, southerly by New-Jersey, and westerly and northerly by a line beginning on Hudson's-River, at the north-east corner of the farm late belonging to Harman Talman, deceased, and running from thence westerly along the said farm to the tract of land formerly granted to Teunis D. Talman, and then southerly and westerly along the bounds of the same tract to Demarests-Kill or Hackinsack-River, and then down the stream thereof to the north-east corner of a tract of one thousand acres of land, formerly sold for defraying the expences of dividing the patent of Kakiatt, and then westerly along the same to the north-west corner thereof, and then northerly, westerly and southerly along the land of Johannes Jos. Blauvelt to the north-east corner of the land of John M. Hogenkamp, and then westerly and southerly along the same to the north-east corner of the land of John P. Mabie, and then westerly along his land to New-Jersey, shall be and hereby is erected into a town by the name of Orange-Town.

Orange-Town.

And that all that part of the said county of Orange, bounded easterly by Orange-Town and Hudson's-River, southerly by Orange-Town and New-Jersey, and northerly by a line beginning at the mouth of Poplopens-Kill on Hudson's-River, and running from thence on a direct course to the south-eastermost corner of the farm of Stephen Slood and then along the south bounds of his farm to the south-west corner thereof and then on the same course to New-Jersey, shall be, and hereby is erected into a town, by the name of Haverstraw.

Haverstraw.

And that all that part of Orange county aforesaid, bounded northerly by Ulster-County, easterly by Hudson's-River and Haverstraw, southerly by New-Jersey, and westerly by a line beginning at the border or verge of Ulster-County near the new dwelling-house which belonged to John Manno in the year of our Lord one thousand seven hundred and sixty-four, and running from thence on a course which will leave the house, then and now belonging to Barnabas Horton, junior ten chains to the westward of the said course, and so to continue the same course to New-Jersey, shall be and hereby is erected into a town by the name of New-Cornwall.

New-Cornwall.

And that all that part of the county of Orange aforesaid, bounded easterly by New-Cornwall, north by Ulster-County, westerly by the Wall-Kill, and southerly by the creek commonly called Quakers-Creek, from where it falls into the Wall-Kill on the south-westerly side of the Great-Island in the drowned lands to the house of Timothy

Goshen.

Clarke, thence along the southerly side of the road leading from Florida to Chester to the house of Isaac Wynans, thence along the southerly side of the road running by the grist-mill of William Thompson, Esq. towards Sugar-Loaf mountain, to the northerly line of the plantation of Samuel Rainer, and thence along the said line easterly to the south-west corner of a large tract of land commonly called Rutgers's tract, and then easterly along the southerly bounds of the said tract to the foot of the said Sugar-Loaf mountain, and then an east course to the bounds of New-Cornwall, shall be and hereby is erected into a town by the name of Goshen.

Warwick.

And that all that part of the county of Orange aforesaid, bounded easterly by New-Cornwall southerly by the State of New-Jersey, westerly by the Wall-Kill, and northerly by Goshen, shall be and hereby is erected into a town by the name of Warwick.

Minisink.

And that all that part of the said county of Orange, bounded easterly by the Wall-Kill, southerly by New-Jersey, westerly by Delaware-River, and north by the county of Ulster, shall be and hereby is erected into a town by the name of Minisink.

New-Windfor.

And that all that part of the county of Ulster, bounded easterly by Hudson's-River, southerly by the county of Orange, and westerly and northerly by a line beginning at the west side of Hudson's-River at the mouth of Quasick-Creek, and running from thence along the south bounds of a tract of land commonly called the German-Patent, and the southerly bounds of a tract of land granted to Alexander Baird and company to the east bounds of two thousand acres of land, granted to Cadwallader Colden, and then across the same to the most northerly corner of the land granted to Patrick Hume, and then along the westerly bounds thereof to the lands granted to Patrick M'Knight, and then along the same south-easterly and south-westerly to the southerly corner thereof, and then continuing the last mentioned line to the county of Orange, so as to include the lands of Fletcher Mathews, shall be and hereby is erected into a town by the name of New-Windfor.

Newburgh.

And that all that part of the said county of Ulster, bounded easterly by Hudson's-River, southerly by New-Windfor, westerly by the east bounds of the said tract of land granted to Cadwallader Colden, and the east bounds of one thousand acres of land granted to John Johnson, and the east bounds of three thousand acres of land granted to Henry Wileman, and the east bounds of three thousand five hundred acres of land granted to Rip Van Dam and others, and northerly by a line beginning on the west side of Hudson's-River at the north-east corner of a tract of land granted to Francis Harrison and company, called the five thousand acre tract and running from thence westerly along the north bounds of the same tract and the north bounds of another tract granted to the said Francis Harrison, to the tract of land commonly called Wallace's tract, then along the lines of the same northerly and westerly to the north-easterly bounds of a tract of land granted to Jacobus Kipp, John Cruger and others commonly called Kip and Cruger's tract, then westerly along the north-easterly and northerly bounds thereof to the north-west corner thereof and then westerly to the north-east corner of the said tract of three thousand five hundred acres of land granted to Rip Van Dam and others, shall be and hereby is erected into a town by the name of Newburgh.

Marlborough.

And that all that part of the said county of Ulster, bounded easterly by Hudson's-River, southerly by Newburgh, westerly by the east bounds of two thousand acres of land granted to Peter Barberie, and the east bounds of two thousand acres of land granted to William Huddleston, and the east bounds of two thousand acres of land granted to Thomas Garland, and northerly by a tract of land granted to Lewis Du Bois and Partners, called the New-Paltz Patent, and a tract of land, granted to Noah Elting and Nathaniel la Fever, and a tract of land granted to Anne Mullender, commonly called Mullender's tract, and a tract of land granted to Hugh Frere, and the southerly line thereof continued to the east bounds of the said two thousand acres of land granted to the said Thomas Garland, shall be and hereby is erected into a town by the name of Marlborough.

Wall-Kill.

And that all that part of the said county of Ulster, bounded easterly by New-Windfor,

for, southerly by the county of Orange, westerly by Shawangunk-Kill, and northerly by the line commonly called the old north-west line, shall be and hereby is erected into a town by the name of Wall-Kill.

And that all that part of the said county of Ulster, bounded easterly by New-Wind-
for and Newburgh, southerly by the said town of Wall-Kill, westerly by Shawan-
gunk-Kill, and northerly by a line beginning at the north-east corner of a tract of
three thousand acres of land granted to Henry Wileman and running thence along the
north bounds thereof to the Paltz-River, commonly called the Wall-Kill, and then
southerly up the same river to the south-east corner of a tract of four thousand acres
of land granted to Gerardus Beekman and others, and then westerly and northerly
along the southerly and westerly bounds thereof to the north-west corner thereof, and
then north-westerly along the north bounds of the lands granted to Jeremiah Schuy-
ler and Company, to the Shawangunk-Kill aforesaid, shall be and hereby is erected
into a town by the name of Montgomery.

Montgomery.

And that all that part of the said county of Ulster, bounded easterly by Newburgh
and Marlborough, southerly by Montgomery and the Platte-Kill, westerly by Sha-
wangunk mountains, and northerly by a line beginning at the north-east corner of a
tract of two thousand acres of land granted to William Huddleston, and running from
thence along the north bounds thereof and the north bounds of two thousand acres of
land granted to Peter Mathews and others to the mouth of Shawangunk-Kill, and then
westerly along the north side of the same Kill as it runs to the south-west corner of
the land granted to Colonel Jacob Rutten, and then along the westerly bounds thereof
to the north-west corner thereof, and then along the southerly bounds of a tract of
land granted to Stephen Du Blois, to the south-west corner thereof, and then north-
west to Shawangunk mountains aforesaid, shall be and hereby is erected into a town by
the name of Shawangunk.

Shawangunk.

And that all that part of the said county of Ulster, called the township of Kingston
and manor of Fox-Hall, and extending northward to the line of the county of Albany,
and southward to the north bounds of a tract of land granted to Lewis Du Bois and
partners, called the New-Paltz-Patent, shall be and hereby is erected into a town by
the name of Kingston.

Kingston.

And that all that part of the said county of Ulster, called the township of Hurley,
shall be and hereby is erected into a town by the name of Hurley.

Hurley.

And that all that part of the said county of Ulster, called Marbletown, shall be and
hereby is erected into a town by the name of Marbletown.

Marbletown.

And that all that part of the said county of Ulster, bounded northerly by the north
bounds of the patent granted to Lewis Du Bois and partners, called the New-Paltz-
Patent, easterly by Hudson's-River, southerly by Marlborough and Shawangunk, and
westerly by the west bounds of the said patent continued southerly to the north-west
corner of Shawangunk, shall be and hereby is erected into a town by the name of
New-Paltz.

New-Paltz.

And that all that part of the said county of Ulster, called Rochester, and extending
west to Delaware-River, shall be and hereby is erected into a town by the name of
Rochester.

Rochester.

And that all that part of the said county of Ulster, bounded northerly by Roches-
ter, easterly by the town of Shawangunk, Montgomery and Wall-Kill, southerly by
the county of Orange, and westerly by Delaware river, shall be and hereby is erected
into a town by the name of Mama-Kating.

Mama-Kating.

And that all that part of the said county of Ulster, bounded northerly by the county
of Albany, easterly by Kingston, Hurley and Marbletown, southerly by Rochester
and westerly by Delaware-River and the county of Montgomery, shall be and hereby
is erected into a town by the name of Woodstock.

Woodstock.

And that all that part of the county of Columbia, bounded westerly and northerly
by the county of Albany, southerly by the north bounds of the city of Hudson, as
far as to the first falls in Major Abrahams creek, and from thence running east and easter-
ly by a line running from a place in the north line of the county of Columbia, ten miles
distant

Kinderhook.

distant from Hudson's-River, due south until it strikes the said last line from the said falls, shall be and hereby is erected into a town by the name of Kinderhook.

Canaan.

And that all that part of the said county of Columbia, now called King's district, bounded westerly by Kinderhook, northerly by the county of Albany, easterly by the east bounds of this State, and southerly by the said east line from the first falls in Major Abrahams creek aforesaid, continued to the east bounds of this State, shall be and hereby is erected into a town by the name of Canaan.

Claverack.

And that all that part of the said county of Columbia, bounded southerly by the manor of Livingston, westerly by the city of Hudson, northerly by Kinderhook and easterly by a line beginning at the south-east corner of Kinderhook and running thence south fourteen degrees west to the manor of Livingston, shall be and hereby is erected into a town by the name of Claverack.

Hillsdale.

And that all that part of the said county of Columbia, bounded westerly by Claverack, northerly by Canaan, easterly by the east bounds of this State, and southerly by the manor of Livingston, and the north line thereof continued to the east bounds of this State, shall be and hereby is erected into a town by the name of Hillsdale.

Clermont.

And that all that part of the said county of Columbia, beginning on the south side of the mouth of a certain river, commonly called Roeloff-Janse-Kill, and running thence along the south side of the said river easterly until it comes to the tract of land heretofore granted to Derick Wessels, lying on both sides of the said river, thence along the westerly, northerly and easterly bounds of the said tract until it again comes to the said river, and then along the south side of the said river until it strikes the farm now in the occupation of Marcus Platner and Jacob Heermanse, and then along the westerly, northerly and easterly part of the same farm to the south side of the said creek or river, and then along the southerly side thereof to the south bend thereof where it meets with the north line of the county of Dutchess, and thence westerly along the line of the county of Dutchess to Hudson's-River, and then northerly up along Hudson's-River to the place of beginning, shall be and hereby is erected into a town by the name of Clermont, excepting thereout the tract of country called the German or East-Camp.

German-Town.

And that all that part of the said county of Columbia, commonly called and known by the name of the German or East-Camp, shall be and hereby is erected into a town by the name of German-Town.

Livingston.

And that all the remaining part of the said county of Columbia shall be, and hereby is erected into a town by the name of Livingston.

Rensselaerwyck.

And that all that part of the county of Albany, bounded southerly by the county of Columbia, westerly by Hudson's-River, including such of the islands in the same river as are nearest the east side thereof, and northerly by the north bounds of the manor of Rensselaerwyck and easterly by a line beginning in the same north bounds, at a place nine miles distant from Hudson's-River, and running from thence southerly to the north-east corner of Kinderhook in the county of Columbia, shall be and hereby is erected into a town by the name of Rensselaerwyck.

Stephen-Town.

And that all that part of the said county of Albany, bounded easterly by the east bounds of this State, southerly by the county of Columbia, westerly by the said town of Rensselaerwyck and northerly by the north bounds of the said manor of Rensselaerwyck, shall be and hereby is erected into a town by the name of Stephen-Town.

Schaetekoke.

And that all that part of the said county of Albany, bounded southerly by the said town of Rensselaerwyck, westerly by Hudson's-River, northerly by a line beginning at the mouth of Lewis's-Creek or Kill, and running from thence south eighty-four degrees east to Hosick-River, and easterly and south-easterly by a line running from thence down along Hosick-River, as it runs to the place where Tolls-Bridge formerly stood, and then due south to the road leading from St. Hoick to Albany, and then along the same road to the north bounds of Rensselaerwyck, shall be and hereby is erected into a town by the name of Schaetekoke.

Pitts-Town.

And that all that part of the said county of Albany, bounded southerly by Rensselaerwyck and Stephen-Town, westerly by Schaetekoke, northerly by Schaetekoke and Cambridge,

Cambridge and easterly by a line beginning at the distance of ten miles east from Hudson's-River on the north line of Schaetkoke, continued east and running from thence to a place in the north bounds of Stephen-Town at the distance of thirteen miles from Hudson's-River, shall be and hereby is erected into a town by the name of Pitts-Town.

And that all that part of the said county of Albany, bounded easterly by the east bounds of this State, southerly by Stephen-Town, westerly by Pitt's-Town, and northerly by the north line of Schaetkoke and Pitts-Town, continued to the east bounds of this State, shall be and hereby is erected into a town by the name of Hofick.

Hofick.

And that all that part of the said county of Albany, bounded northerly by the county of Washington, easterly by the east bounds of this State, southerly by Hofick, Pitts-Town and Schaetkoke, and westerly by the east bounds of Saraghtoga-Patent, shall be and hereby is erected into a town by the name of Cambridge.

Cambridge.

And that all that part of the said county of Albany, bounded easterly by Cambridge, southerly by Schaetkoke and Anthony's-Kill and a line from that part of the said Kill where it comes out of the Round-Lake to the south-east corner of Balls-Town, westerly by Balls-Town and a north line from the north-east corner thereof, and northerly on the west side of Hudson's-River by the north bounds of lot number seventeen in Saraghtoga-Patent, continued to the said north line from the north-east corner of Balls-Town, and on the east side of Hudson's-River by a line beginning in the middle of lot number thirty-eight in Saraghtoga-Patent on Hudson's-River and running easterly parallel to the south bounds of the same lot to Cambridge, shall be and hereby is erected into a town by the name of Stillwater.

Stillwater.

And that all that part of the said county of Albany, bounded northerly by the county of Washington, easterly by Cambridge, southerly by Stillwater, and westerly by a north line from the north-east corner of Balls-Town, continued to the county of Washington, shall be and hereby is erected into a town by the name of Saraghtoga.

Saraghtoga.

And that all that part of the said county of Albany, bounded westerly by the county of Montgomery, northerly by the county of Washington, easterly by Saraghtoga and Stillwater, and southerly by the south bounds of Balls-Town, and a line from the south-west corner thereof, continued west to the county of Montgomery, shall be and hereby is erected into a town by the name of Balls-Town.

Balls-Town.

And that all that part of the said county of Albany, bounded northerly by Stillwater and Balls-Town, easterly by Schaetkoke, southerly by the middle of the Mohawk-River and its most northerly branch, and westerly by the west bounds of the patent granted to William Apple, and the Long-Lake, shall be and hereby is erected into a town by the name of Half-Moon.

Half-Moon.

And that all that part of the said county of Albany, bounded northerly by Balls-Town, easterly by Half-Moon and Water-Vliet, southerly by the north bounds of the manor of Rensselaerwyck, and westerly by the county of Montgomery and a line running from that part of the Mohawk-River where the line of the county of Montgomery comes to the said river, south to the manor of Rensselaerwyck, including all that tract of land called Cory's-Brook, shall be and hereby is erected into a town by the name of Schenectady.

Schenectady.

And that all that part of the said county of Albany, bounded easterly by Hudson's-River, including the islands in the same lying nearest the west side thereof, northerly by Half-Moon and by a line from the south-west corner of Half-Moon, south to the lands granted to John Schuyler and then along the western bounds thereof to the north bounds of the manor of Rensselaerwyck, and then to the north-west corner of the said manor, westerly by the west bounds of the same manor, and southerly by the north line of the county of Columbia, continued to the west bounds of the same manor, except the city of Albany, shall be and hereby is erected into a town by the name of Water-Vliet.

Water-Vliet.

And that all that part of the said county of Albany, bounded westerly and northerly by the county of Montgomery, easterly by Schenectady and Water-Vliet, and southerly by a tract of land called the township of Blenheim, and a line running from the north-east

Schoharie.

Cockfakie.

north-east corner thereof east to Water-Vliet, shall be and hereby is erected into a town by the name of Schoharie.

And that all that part of the said county of Albany, bounded westerly by the counties of Montgomery and Ulster, northerly by Schoharie and Water-Vliet, easterly by the county of Columbia, and southerly by a line beginning at the south bank of the mouth of the Murderer's-Kill at Lunenburg, and running from thence north eighty degrees west to the county of Ulster, shall be and hereby is erected into a town by the name of Cockfakie.

Cats-Kill.

And that all that part of the said county of Albany, bounded northerly by Cockfakie, easterly by the county of Columbia, and southerly by the county of Ulster, shall be and hereby is erected into a town by the name of Cats-Kill.

Argyle.

And that all that part of the county of Washington, bounded southerly by the county of Albany, westerly by Hudson's-River, northerly by a tract of land called Kingsbury and a tract of land called the Provincial-Patent, and easterly by the east bounds of a tract of land called the township of Argyle, shall be and hereby is erected into a town by the name of Argyle.

Salem.

And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by the county of Albany, westerly by Argyle, and northerly by the north bounds of a tract of land called Turner's-Patent and a line running from the north-east corner thereof, east to the east bounds of the said county of Washington, shall be and hereby is erected into a town by the name of Salem.

Hebron.

And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by Salem aforesaid, westerly by Argyle and the said tract of land called the Provincial-Patent, and northerly by an east and west line run from the south-east corner of a tract of land formerly granted to Lieutenant Byrn, shall be and hereby is erected into a town by the name of Hebron.

Granville.

And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by Hebron aforesaid, westerly by the said tract called the Provincial-Patent and a tract of land called the Artillery-Patent and northerly by a tract of land heretofore called Skeensborough, and a line running east from the south-east corner thereof to the east bounds of the said county of Washington, shall be and hereby is erected into a town by the name of Granville.

Hampton.

And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by Granville aforesaid, westerly by the said tract of land heretofore called Skeensborough and a line running from the north-east corner thereof north-east to the north bounds of the said county of Washington, and northerly by the north bounds of the said county of Washington, shall be and hereby is erected into a town by the name of Hampton.

Whitehall.

And that all that part of the said county of Washington, bounded easterly by Hampton, southerly by the south bounds of the tract of land heretofore called Skeensborough, westerly by the west bounds of the said tract and the waters of South-Bay, and northerly by the north bounds of the said county of Washington, shall be and hereby is erected into a town by the name of Whitehall.

Kingsbury.

And that all that part of the said county of Washington, bounded easterly by the said tract of land called the Provincial-Patent, southerly by Argyle and Hudson's-River, westerly by the west bounds of a tract of land called Kingsbury, and northerly by the north bounds of the said tract of land called Kingsbury, shall be and hereby is erected into a town by the name of Kingsbury.

Westfield.

And that all that part of the said county of Washington, bounded southerly by Kingsbury, easterly by Hebron, Granville and Whitehall, northerly by Whitehall and the north bounds of the said county of Washington, and easterly by Lake-George, shall be and hereby is erected into a town by the name of Westfield.

Queensbury.

And that all that part of the said county of Washington, bounded easterly by Westfield and Kingsbury, southerly by the county of Albany, westerly by the county of Montgomery, and northerly by the north bounds of the said county of Washington, shall be and hereby is erected into a town by the name of Queensbury. And

And that all that part of the county of Clinton, bounded southerly by the south bounds of the said county of Clinton, northerly by the south line of Judd's-Patent, continued westerly to the county of Montgomery, and easterly to the east bounds of the county of Clinton, easterly by the east bounds of the county of Clinton, and westerly by the county of Montgomery, shall be and hereby is erected into a town by the name of Crown-Point.

Crown-Point.

And that all that part of the county of Clinton, bounded on the south by the town of Crown-Point, on the north by the south line of a patent (which including the river A-Sable at its mouth) continuing westward to the county of Montgomery, and eastward to the east bounds of the county of Clinton, easterly by the east bounds of the county of Clinton and westerly by the county of Montgomery, shall be and hereby is erected into a town by the name of Willsborough.

Willsborough.

And that all that part of the county of Clinton, bounded on the south by the town of Willsborough, on the north by the north line of a patent granted to William Beekman and others, continued westward to the county of Montgomery, and eastward to the east bounds of the county of Clinton, easterly by the east bounds of the county of Clinton, and westerly by the county of Montgomery, shall be and hereby is erected into a town by the name of Plattsburgh.

Plattsburgh.

And that all that part of the county of Clinton laying to the northward of the town of Plattsburgh, south of the north bounds of this State, west of the east bounds of the county of Clinton, and east of the county of Montgomery, shall be and hereby is erected into a town by the name of Champlain.

Champlain.

And that all that part of the county of Montgomery, bounded northerly by the north bounds of this State, easterly by the counties of Clinton, Washington and Albany, southerly by the Mohawk-River, and westerly by a line running from the hill called Anthony's-Nose, north to the north bounds of this State, shall be and hereby is erected into a town by the name of Caughnawaga.

Caughnawaga.

And that all that part of the said county of Montgomery, bounded northerly by the north bounds of this State, easterly by Caughnawaga, southerly by the Mohawk-River, and westerly by a line running from the little falls in the Mohawk-River north to the north bounds of this State, shall be and hereby is erected into a town by the name of Palatine.

Palatine.

And that all that part of the said county of Montgomery, bounded northerly by the north bounds of this State, easterly by Palatine, southerly by the Mohawk-River and westerly by a north and south line running across the Mohawk-River at the fording place near the house of William Cunningham, leaving the same house to the west of the same line, shall be and hereby is erected into a town by the name of Herkemer.

Herkemer.

And that all that part of the said county of Montgomery, bounded northerly by the Mohawk-River, easterly and southerly by the county of Albany, and westerly by a line running from the hill called Anthony's-Nose south until it strikes the county of Albany, shall be and hereby is erected into a town by the name of Mohawk.

Mohawk.

And that all that part of the said county of Montgomery between the Cookquago-Branch of Delaware-River and the branch of the Susquehanna-River called Adigitange, beginning at a rock-maple tree, marked on four sides with a blaze and three notches, and with the letters and figures A. C. 1768 standing on a high point of land at the south side of a small lake called by the Indians Utsayantho, from whence the said branch of the Delaware called by the Indians Cookquago issues, and running from thence north thirty degrees west to the said Adigitange, and thence down the same and the Susquehanna to the bounds of Pennsylvania, and east along the same to the river Delaware, and then up the same river to the place of beginning, shall be and hereby is erected into a town by the name of Harpersfield.

Harpersfield.

And that all that part of the said county of Montgomery, beginning at the head-water of the lake Otsego, in the patent commonly called the Otsego-Patent, granted to George Croghan and others, and running from thence along the northerly bounds of the said patent to the north-west corner thereof, thence extending westerly to the river Tienaderha, so as to include the patent granted to William and Robert Edmin-
ston;

Otsego.

ston, thence down the said river to its junction with the Susquehanna-River, and then up the said river to the place of beginning, shall be and hereby is erected into a town by the name of Otsego.

Canajoharie.

And that all that part of the said county of Montgomery, bounded northerly by the Mohawk-River, easterly by the town of Mohawk, and the county of Albany, southerly by Hapersfield, and westerly by the river Susquehanna and the lake Otsego, and a line from the head-water thereof to the Little-Falls in the Mohawk-River, shall be and hereby is erected into a town by the name of Canajoharie.

German-Flatts.

And that all that part of the said county of Montgomery, bounded northerly by the Mohawk-River, easterly by Canajoharie, southerly by Otsego and westerly by the western line of the town of Herkemer, continued south to the said town of Otsego, shall be and hereby is erected into a town by the name of German-Flatts.

Whites-Town.

And that all the remaining part of the said county of Montgomery shall be and hereby is erected into a town by the name of White's-Town.

Boundaries of said towns not to effect the rights of individuals or bodies politic.

II. And be it further enacted by the authority aforesaid, That none of the bounds or lines by this act assigned for the limits of any or either of the said towns, shall be deemed to take away, abridge, destroy or affect the right or title of any person or persons, bodies politic or corporate in any manner or by any means whatsoever, nor be deemed taken or construed as a confirmation of the bounds or the rights of any patent or patents whatsoever.

Where any farm is intersected by any of the aforesaid lines taxes for the same where to be paid.

III. And be it further enacted by the authority aforesaid, That where any line of any of the said towns shall intersect a farm, the possessor of such farm shall pay all his taxes for such farm in the town where his dwelling-house shall be.

Inhabitants of South and North-Hempstead may fish in each others bays, creeks, &c.

IV. And be it further enacted by the authority aforesaid, That the inhabitants of South-Hempstead shall have and enjoy the right of oystering, fishing and clamming in the creeks, bays and harbours of North-Hempstead, and the inhabitants of North-Hempstead shall have and enjoy the like rights and privileges in the creeks bays and harbours of South-Hempstead.

Poor of Goshen to be supported at the joint expence of said towns Warwick and Minisink, and the bridges to be repaired in the same manner as if this act had not passed.

V. And be it further enacted by the authority aforesaid, That the poor now belonging to the precinct of Goshen, and all persons now entitled to a settlement therein, and who shall become poor, shall be supported and maintained at the joint expence of the said towns of Goshen, Warwick and Minisink in the same proportion as the necessary and contingent charges of the county shall from time to time be laid upon the same towns respectively, and that all the bridges which are now by law directed to be made and maintained at the joint expence of the inhabitants of the precincts of Goshen and Cornwall, shall continue to be made, repaired and maintained by the inhabitants of the said towns of New-Cornwall, Goshen, Warwick and Minisink in the same manner as if this act had not been made.

Poor of the manors of Cortlandt & Philipburgh, how to be distributed and maintained.

VI. And be it further enacted by the authority aforesaid, That such poor persons as are now maintained by the inhabitants of the manor of Cortlandt and manor of Philipburgh, shall be distributed within twenty days after this act shall take effect; those of the said manor of Cortlandt to and among the towns of Cortlandt, York-Town and Stephen-Town; and those of Philipburgh to and among the towns of Greenburgh and Mount-Pleasant, in such equitable manner as Ebenezer Purdy, Jonathan G. Tompkins and Ebenezer Lookwood, or any two of them shall by writing under their hands or the hands of any two of them order and direct; and that after such distribution the inhabitants of the said towns shall respectively maintain such of the said poor persons as shall be so as aforesaid to them respectively assigned; and that until such distribution shall be so as aforesaid made the said poor persons shall be kept and maintained in the same manner as if this act had never been made.

Freeholders of all towns to hold their town-meetings on the first Tuesday in April, for chusing town officers, &c. who shall hold their offices one year.

VII. And be it further enacted by the authority aforesaid, That the freeholders and inhabitants of each and every of the said towns for the time being respectively, who are or shall be qualified by law to vote at town-meetings, shall for ever hereafter have full power and authority, and they are hereby directed and required to assemble together and hold town-meetings in their respective towns on the first Tuesday in April in every year, and then and there to elect and chuse one supervisor, one town clerk, not less

than three nor more than seven assessors, one or more collectors, each of whom shall be liable only for the monies which they are respectively directed to collect in such parts of the town as shall be assigned to them by the supervisor, two overseers of the poor, and three commissioners of high-ways for the same town, each of whom shall be a freeholder and inhabitant of the same town, and so many constables, overseers of the highways, fence-viewers and pound-masters for the same town, being inhabitants of the same town as to the freeholders and inhabitants of said town so met, or the major part of them shall seem necessary and convenient, which said several officers shall hold their respective offices for one year, and until others shall be chosen in their places: And in case any of the officers so chosen in any such town, shall refuse to serve, or die, or remove out of the town, or become incapable of serving before the next annual town-meeting, then and in every such case it shall and may be lawful to and for the freeholders and inhabitants of such town, from time to time when it shall be necessary, to elect and chuse another or others in the room of such of them so refusing to serve, or dying, removing or becoming incapable of serving, and to assemble together and hold town-meetings for that purpose: And the town clerk of each town respectively upon notice of any such refusal, removal, incapacity or death, or in case of any vacancy of the office of town clerk, then any Justice of the Peace in the same county upon notice thereof and request to him by any freeholder of the same town, is hereby required to give notice in the manner herein after mentioned of a town meeting in the same town for the purpose aforesaid.

And in case of death or refusal of any such officers to serve, to meet again and chuse others.

Town-Clerk to give notice of such death or refusal, and of the time for chusing others.

VIII. *And be it further enacted by the authority aforesaid,* That the first town-meeting in each of the said towns after this act shall take effect, shall be held at the place in each respective town where such meeting in the same district ought to have been held if this act had not been made, and where there is no such place or more than one such place in any town, then at such place as the Justices of the Peace residing in such town or the major part of them shall direct and appoint. And that all town-meetings thereafter to be held in each respective town shall be held at such place in each town respectively as the freeholders and inhabitants of such town, at their town-meeting shall from time to time direct and appoint.

First town-meetings after the passing of this act where to be held, and the freeholders to fix the places of after meetings.

IX. *And be it further enacted by the authority aforesaid,* That the freeholders and inhabitants of the city of Albany, shall and may, and they are hereby required yearly and every year on the first Tuesday in May to elect and chuse one supervisor, two assessors, one collector, and one overseer of the poor, being freeholders and inhabitants of the said city, and two constables being inhabitants of the same city, in each of the wards of the said city: *And further,* That the freemen of the city of Hudson being inhabitants thereof, shall and may, and they are hereby required yearly and every year at their annual election of officers within the said city of Hudson to elect and chuse one supervisor and such number of assessors, collectors, constables and overseers of the poor of the same city as the Common Council for the same city shall from time to time deem necessary, and direct to be chosen.

Freeholders of the city of Albany when to elect their officers.

Freemen of Hudson when to elect their officers.

X. *And be it further enacted by the authority aforesaid,* That if any or either of the said cities, towns or places shall neglect to chuse such officers as aforesaid or any or either of them, or in case any or either of the officers so chosen in and for any city, town or place aforesaid, shall refuse to serve or die or remove out of the city, town or place for which he shall be chosen, or become incapable of serving before the next annual town-meeting or election, after he shall be chosen, and the city, town or place for which he was chosen shall not within fifteen days next after such refusal, death, removal or incapacity happens, chuse another in the room of such person so refusing to serve, or dying or removing, or becoming incapable of serving; then and in every such case it shall and may be lawful for any three of the Justices of the Peace in the same county, residing in such city, or in or near to such town, and they are hereby required to nominate, and by warrant under their hands and seals to appoint all and every such officers as aforesaid as the freeholders and inhabitants of the same city, town or place ought to have chosen as aforesaid, and each and every of the said officers so appointed, shall hold his office for so long time and have the same powers and be liable

When any cities or towns neglect to appoint their officers their Justices of the Peace may appoint them by warrant.

to the same penalties as if he had been elected to the same office by the freeholders and inhabitants of such city, town or place.

Supervisors,
town-clerks, assessors
&c. to take an
oath before they
enter their offices.

Supervisor's oath.

Town-Clerk's
oath.

Assessor's oath.

Commissioner of
highways' oath.

Overseer of the
poor's oath.

Justice of the
Peace before whom
said oaths are taken
to certify the same,
and the oaths to be
transmitted to the
town-clerk.

Neglect or refusal
to take such oath &c.
to be considered as a
refusal to serve.

Any supervisor,
assessor, collector,
constable, &c. refus-
ing to serve to for-
feit 25l.

XI. *And be it further enacted by the authority aforesaid,* That each and every supervisor, town-clerk, assessor, commissioner of highways, overseer of the poor, and constable hereafter to be elected or appointed, shall before he enters upon the execution of his office and within eight days after such election or appointment take and subscribe an oath before some Justice of the Peace in the form herein after prescribed for such officers respectively to take, that is to say every supervisor shall take and subscribe an oath in the following form, to wit, "I do solemnly and sincerely promise and swear that I will in all things to the best of my knowledge and ability, faithfully and impartially execute and perform the trust reposed in me as supervisor of the (here insert the name of the place) in the county of (here insert the name of the county) and that I will not pass any account or any article thereof wherewith I shall think the said county is not justly chargeable, nor will I disallow any account or any article thereof wherewith I shall think the said county is justly chargeable." And every town-clerk shall take and subscribe an oath in the following form, to wit, "I

town-clerk of the town of in the county of do solemnly and sincerely promise and swear that I will faithfully and honestly keep all the books, records, writings and papers, by virtue of my said office of town-clerk committed, and which shall from time to time be committed unto me, and in all things to the best of my knowledge and understanding, well and faithfully perform the duties of my said office of town-clerk without favor or partiality." And every assessor shall take and subscribe an oath in the following form, to wit, "I

do solemnly and sincerely promise and swear, that I will honestly and impartially assess the several persons and estates within the (here insert the name of the place) in the county of (here insert the name of the county) and that in making such assessments I will to the best of my knowledge and judgment observe the directions of the several laws of this State directing and requiring such assessments to be made." And every commissioner of highways shall take and subscribe an oath in the following form, to wit, "I

do solemnly and sincerely promise and swear, that I will in all things to the best of my knowledge and understanding, well and faithfully execute the trust reposed in me as a commissioner of highways for (here insert the name of the town and county) without favor or partiality." And every overseer of the poor and constable shall take and subscribe an oath in the following form, to wit, "I do solemnly and sincerely promise and swear that I will in all things to the best of my knowledge understanding and ability, well and faithfully execute and perform the trust reposed in me as an overseer of the poor, or constable (as the case may be) of the (here insert the name of the place) in the county of (here insert the name of the county)." And

further, That every Justice of the Peace before whom such oath shall be taken and subscribed as aforesaid, shall without fee or reward certify under the same writing the day and year when the same oath was taken and subscribe his name thereto, and then deliver the same writing to the person taking the same oath, who shall within eight days thereafter, transmit or deliver the same to the clerk of the town for which such officer so taking such oath was elected or appointed. And if any supervisor, assessor, commissioner of highways, overseer of the poor or constable of any town, shall not take and subscribe such oath as aforesaid, and transmit or deliver the same to the town-clerk as aforesaid, within the time hereby limited, or if any collector or constable shall not give such security as is by law required, within the time for that purpose limited, then and in every such case such neglect shall be deemed a refusal to serve in such office; and the town in which such officer was chosen may thereupon proceed to a new choice.

XII. *And be it further enacted by the authority aforesaid,* That if any person hereafter chosen or appointed a supervisor, town-clerk, assessor, collector, commissioner of highways, overseer of the poor or constable as aforesaid, shall refuse to take upon him or to serve in such office, or if any such supervisor, town-clerk, assessor, commissioner of highways or overseer of the poor shall proceed in the execution of such office before he shall have taken and subscribed such oath as aforesaid, or if any such collector

collector or constable shall proceed in the execution of his office before he shall have given such security as is or shall be required by law, then and in every such case every person so neglecting or refusing or doing, shall forfeit to the people of this State the sum of *twenty-five pounds*, to be recovered by action of debt, bill, plaint or information, in any Court of Record, and the Attorney-General of this State for the time being, is hereby directed and required to sue and prosecute for all such penalties and forfeitures, and to pay the same when recovered to the Treasurer of this State, for the use of the people of this State. And in every such action, suit or information it shall be sufficient to set forth, that the defendant, at a certain time and place became indebted to the people of the State of New-York in the sum of *twenty-five pounds* as a forfeiture incurred, by reason that the defendant having been elected or appointed (as the case may be) a supervisor, town-clerk, assessor, collector, commissioner of highways, overseer of the poor or constable, as the case may be, did refuse to take upon him and to serve in his said office, or did proceed in the execution of his said office, without taking and subscribing the oath by law required, or without giving the security by law required, as the case may be, contrary to the form of the "Act for dividing the counties of this State into towns," to be paid to the people of the State of New-York aforesaid, when he should be thereunto afterwards required, and to give the special matter in evidence,

To be recovered by the Attorney-General in any court of record.

XIII. *And be it further enacted by the authority aforesaid,* That if any person hereafter chosen or appointed an overseer of the highways, fence-viewer or pound-master, shall neglect or refuse to take upon him the said office, then and in every such case such person so neglecting or refusing shall forfeit and pay the sum of *five pounds*, to be recovered with costs, before any Justice of the Peace, by action of debt, the one moiety thereof to the use of the poor of the town for which such officer was chosen or appointed, and the other moiety thereof, with the costs of suit, to the use of any person who shall prosecute for the same to effect.

Any overseer of the highways, fence-viewers, &c. refusing to serve, to forfeit 100l.

XIV. *And be it further enacted by the authority aforesaid,* That upon the death or expiration of the office of the town-clerk of any town, all the records, books, writings and papers, belonging to the same office, shall be delivered to the successor in office, upon the oath of the preceding town-clerk, or in case of his death, upon the oath of his executors or administrators; and if any such preceding town-clerk or his executors or administrators, shall refuse or neglect to deliver the same upon oath as aforesaid, being lawfully demanded, every such person shall forfeit to the people of this State for every such refusal or neglect, the sum of *one hundred pounds*, to be recovered by action of debt, bill, plaint or information, in any court of record; and the Attorney-General of this State for the time being is hereby directed and required to sue for such forfeiture, and to pay the same, when recovered, to the treasurer of this State for the use of the people of this State. And in every such action, suit or information, it shall be sufficient to set forth that the defendant on the day such demand was made, became indebted to the people of the State of New-York, in the sum of *one hundred pounds*, as a forfeiture incurred by reason that the defendant did neglect and refuse to deliver to the succeeding town-clerk the records, books, writings and papers belonging to the same office, contrary to the form of the "Act for dividing the counties of this State into towns," to be paid to the people of the State of New-York when he should be thereunto required, and to give the special matter in evidence.

On the death or expiration of office of any town-clerk, records to be delivered to his successor. Forfeiture for neglect to deliver such records.

Said forfeiture to be sued for and recovered by the Attorney-General.

XV. *And be it further enacted by the authority aforesaid,* That the freeholders and inhabitants of each and every of the said towns shall be and are hereby authorized and empowered, at their respective annual town-meetings, or any other town-meeting held for that purpose in their respective towns from time to time, to make, establish, constitute and ordain such prudential rules, orders and regulations, as the majority of the freeholders and inhabitants of such towns respectively, so assembled at their respective town-meetings, and having a right to vote there, shall from time to time judge necessary and convenient, for the better improving of their common lands in tillage, pasturage or any other reasonable way; and for making, maintaining and amending their partition and circular fences, for their lands, gardens, orchards and meadows, and for ascertaining and directing the use and management and the times and manner of using their common

Freeholders of all towns at their annual meetings may make regulations for improving their common lands, and amending their fences.

And impose penalties on the offenders against such regulations.

Said penalties how to be applied.

Said regulations to be entered and kept in a book by the town clerk.

Freeholders of all towns at their annual meetings may make provision for destroying noxious wild animals.

Special town-meetings to be notified by the town clerk eight days before hand.

Where lands of two or more persons join, division fence how to be made, and disputes to be settled by the fence-viewers.

common lands and meadows and other commons, and the times, places and manner of permitting or preventing cattle, horses, sheep and swine, or any of them, to go at large, and for impounding all manner of cattle and creatures whatsoever, and for ascertaining the sufficiency of all partition, and other fences, and for making and maintaining such and so many pounds, and at such places as may be necessary and convenient, and for ascertaining and limiting the fees to be taken by the fence-viewers respectively; and to impose such penalties on the offenders against such rules, orders and regulations, or any or either of them as the majority of such freeholders and inhabitants so assembled shall from time to time deem proper, not exceeding *five pounds* for each offence, to be recovered with costs of suit by the supervisor for the time being of the town where the offence shall be committed, in the name of the supervisor of such town, for the use of the same town, by action of debt, before any Justice of the Peace residing in any other town in the same county. And no such action shall be abated or discontinued by the death or expiration of the office of such supervisor, but may be continued and prosecuted to effect by his successor in office. And all such penalties when recovered, shall be applied and disposed of for the use of the town where such offence shall be committed, in such manner and for such purposes as the freeholders and inhabitants of the same town where such offence shall be committed at their town-meetings or the majority of them there assembled, shall from time to time direct and appoint. *And further*, That all such rules, orders and regulations so to be made as aforesaid in each town, shall be entered and recorded by the town clerk of the same town in a book by him to be provided for that purpose, and shall remain and be in full force until the same shall be revoked or altered, or new made in the manner aforesaid, at some subsequent town-meeting, all which alterations and new rules, orders and regulations shall also from time to time be entered and recorded as aforesaid, and shall continue and be in force until revoked, altered or new made as aforesaid.

XVI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the freeholders and inhabitants of each and every of the said towns at their respective annual town-meetings, or at any other town-meeting held for that purpose, to make such provisions and allow such rewards for the destruction of wolves, wild-cats, foxes, crows, black-birds and other noxious wild animals and birds, and to direct such sum of money to be raised in such town for that purpose and for prosecuting or defending the common rights of such town as the major part of the said freeholders and inhabitants so assembled at any such town-meeting shall deem necessary and proper, which money shall be raised and levied, together with and in the same manner as the money raised in such town for the support of the poor, shall be raised and levied.

XVII. *And be it further enacted by the authority aforesaid*, That whenever it shall be necessary to hold a town-meeting in either of the said towns for any of the purposes aforesaid, at any time between any of the said annual town-meetings, due notice thereof shall be given by the town clerk in writing, under his hand, specifying the time, place and purposes of such town-meeting, and fixed up at four or more of the most public places in the same town at least eight days before the time therein appointed for holding such town-meeting. And the town clerk of each of the said towns, is hereby directed and required to give such notice whenever it shall be necessary to hold such town-meeting, for electing any of the officers aforesaid, in such town, or he shall be required to do so by any twelve or more freeholders of such town.

XVIII. *And be it further enacted by the authority aforesaid*, That where the lands or meadow of any two or more persons shall join each other, each of them shall make and maintain a just proportion of the division or partition fence, between them, except such persons as shall chuse to let their lands or meadows lay vacant and open, and in case any disputes shall arise concerning the part or proportion of the fence to be made and maintained by either party, the same shall be settled by the fence-viewers of such place where such lands or meadow shall be situated, or any two of them, whose decision shall be conclusive, and if any person shall neglect or refuse to make and maintain his or her part or proportion of such fence, or shall permit the same to be out of repair, every such person shall be liable to and shall pay all and every such damages as shall accrue to his

his or her neighbour or neighbours thereby, to be appraised and ascertained by the fence-viewers of the same place, or any two of them, not interested therein, being first sworn well and truly, and without any favour or partiality, to appraise and ascertain the true and real value of such damages, according to the best of their knowledge, skill and judgment; and to be recovered with costs, in any court having cognizance of the same: And in case the party so neglecting or refusing shall continue such neglect or refusal for the space of one month after notice and request to make or repair such fence, then and in every such case it shall be lawful for the party injured or aggrieved thereby to make or repair all the said fence at the expence of the party so neglecting or refusing, to be recovered with costs of suit, in any court having cognizance of the same. And in case any person or persons who shall have made his, her or their proportion of any such fence shall conclude or be disposed to throw up his, her or their said lands or meadow for common feeding, or to let the same lay open, he, she or they shall give three months notice thereof to the person or persons in possession of the lands or meadow adjoining, and if such fence shall be removed without giving such notice or before the expiration of the said three months, then and in every such case the person or persons so removing or causing such fence to be removed, shall be liable to make good all such damages as the party injured and aggrieved by such removal shall sustain thereby, to be recovered as aforesaid with costs.

Any person may throw open his land for common feeding upon giving three months notice.

And whereas in some parts of this State, the fences inclosing meadow and low land are frequently injured, destroyed or carried away by floods or high tides which generally happen in the spring of the year, and the owners of such meadow or low land lose a great part of the profits thereof for the whole year, unless the said fence be speedily repaired or new made. *Therefore,*

Recital to the following clauses.

XIX. *Be it further enacted by the authority aforesaid,* That in all cases where any such partition fence shall be so injured, destroyed or carried away, every person who ought by law to make or repair the same, shall make or repair the same, or his or her just proportion thereof, within ten days after he or she shall be thereunto required by any person interested therein, and if any person shall refuse or neglect to make or repair his or her proportion of such fence, for the space of ten days after such request as aforesaid, then and in every such case it shall be lawful for the party injured or aggrieved thereby to make or repair all the said fence, at the expence of the party so neglecting or refusing, and he or she shall and may recover the same with costs in any court having cognizance thereof.

Fences enclosing low land and meadow, which may be carried away or injured by floods how to be repaired.

XX. *And be it further enacted by the authority aforesaid,* That when any distress shall be made of any beasts doing damage, the person distraining shall as soon as conveniently may be, and within twenty-four hours thereafter, make application to the two nearest fence-viewers in the same town, to appraise and ascertain the damage, who shall immediately thereupon go to the place where such damage shall be committed, and view the damage done, and appraise, ascertain and certify under their hands, the amount thereof, with their fees for the same, being first sworn well and truly, and without any favour or partiality, to appraise the true and real amount of such damage, according to the best of their knowledge, skill and judgment; and if any dispute shall arise concerning the sufficiency of the fence, it shall be determined by the same fence-viewers, whose decision shall be conclusive; and the person making the distress shall as soon as he shall think proper, and within forty-eight hours after making such distress, unless the damage shall be sooner paid, cause the beasts so distrained to be put in the nearest pound in the same county, where they shall remain until the sum so certified by the fence-viewers, with the fees of the pound-master, shall be paid, or the beasts so impounded be replevied.

Where distress is made of any beasts doing damage, damage how to be ascertained.

And if such damage is not paid, beasts may be sold.

XXI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Common Council for the time being, of the respective cities of New-York, Albany and Hudson to make such orders, rules and regulations for the making amending and maintaining the fences in the said cities respectively, as well partition fences as others, as they shall from time to time judge most proper and convenient.

Common-Councils of New-York, Albany and Hudson to make rules, relating to partition fences in their several cities.

One sufficient pound to be kept in each city and town, and keepers thereof to be appointed.

Fees allowed to pound-keepers for impounding of beasts, to be paid before the beasts are released.

And if not paid within six days, together with the damages and expence of feeding them, then the beasts may be sold.

This act when to take effect.

XXII. *And be it further enacted by the authority aforesaid,* That there shall be made and kept one good and sufficient pound in each city and town of this State, and that it shall and may be lawful for the Common Council of the respective cities of New-York, Albany and Hudson from time to time to appoint keepers of the pounds in their respective cities, who shall respectively hold their offices during the pleasure of the said Common Council, and that the said respective keepers of the said pounds and the respective pound-masters in each respective town, shall and may have, receive and take for all beasts that shall be put into the pound of which he is keeper or master, the following fees, to wit: For taking in and discharging every horse, gelding, mare or colt, and all neat cattle, *one shilling* each, and for every sheep or lamb, *three pence*, and for every hog, shoat or pig, *six pence*, which fees shall be paid to the said keeper or pound-master by the owner or owners of the beasts impounded, or some person or persons for him, her or them before the said beasts shall be released or discharged from such pound, unless the keeper or master of such pound shall otherwise agree concerning the same. And if the owner of any beasts impounded for doing damage shall not pay the damage and the fees of the keeper or master of the pound, with reasonable charges for keeping and feeding them, not exceeding *three pence* for each beast for every twenty-four hours, each such beast shall be impounded and fed, within six days after such beasts shall be impounded or replevy the same beasts, then it shall and may be lawful for every such keeper or master of such pound to sell such beasts at public-vendue, giving at least forty-eight hours previous notice of such sale, by advertisement, to be set up at the said pound, and at the nearest public place to the said pound, and out of the monies arising from such sale to pay the said damage, and retain in his hands his fees and charges of feeding and keeping the same beasts, and of such sale, and return the overplus to the owner of the same beasts; and if no such owner shall appear and claim such overplus within six calender months after such sale, the same shall be paid to the overseers of the poor of the city or town where such beasts were impounded, for the use of the poor of such city or town.

XXIII. *And be it further enacted by the authority aforesaid,* That this act shall take effect and be in force from and after the first day of April in the year of our Lord one thousand seven hundred and eighty-nine, except with respect to the county of Westchester, and that with respect to the said county it shall take effect within twenty days after the passing thereof.

C H A P. LXV.

An ACT for defraying the Public and necessary Charge in the respective Counties of this State. Passed the 7th of March 1788.

Assessors of each city and town yearly to assess the value of all estates, and to make a list of all the inhabitants names.

And opposite such name to set down the value of each person's estate.

And to deliver such lists to the supervisors of the county.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the assessors of each respective city, town and place in every county of this State, shall yearly and every year, as soon as conveniently may be after they are chosen and qualified, proceed to enquire into the value of the real and personal estate of every freeholder and inhabitant within the city, town or place, whereof they are assessors, and shall make out a true and exact list of the names of all the freeholders and inhabitants of the respective cities, towns and places, for which they shall be chosen assessors; and of such who have estates therein and do not reside there; and opposite to the name of every such person shall set down the real value of all his, or her whole estate, real and personal in the same city, town or place, as near as they can discover the same, and shall set down the value of the real estate of each person as aforesaid in one column, and the value of the personal estate of each person as aforesaid in another column of the same list or assessment, leaving room sufficient opposite thereto to insert the sum each person is to pay; and shall compleat and deliver the same list or assessment, signed by such assessors

assessors or the major part of them to the supervisors of the county in which such city, town or place is or shall be situated, or their clerk, on or before the last Tuesday in May next after their election yearly and every year; And if any assessor shall refuse or neglect to perform the duty hereby required of him; every assessor so refusing or neglecting, shall forfeit and pay for every such offence the sum of *twenty-five pounds*, to be sued for and recovered for the use of the county where such offence shall be committed, with costs, in any Court of Record, by action of debt, bill, plaint or information, and in the name of the supervisors of the same county; and in every such action, suit or information, it shall be sufficient for the plaintiffs to set forth, that the defendant at a certain time and place became indebted to the supervisors of the said county in the said sum of *twenty-five pounds*, as a forfeiture incurred for refusing and neglecting to perform the duty required of him by virtue of an act, entitled, "An Act for defraying the public and necessary charge in the respective counties of this State," to be paid to the supervisors of the said county, when he should be thereunto required, and to give the special matter in evidence: And all such penalties, when recovered, shall be applied to the use of the county where the offence was committed, in such manner and for such purposes, as the supervisors of the same county for the time being shall direct and appoint.

Assessor for neglect of such duty to forfeit 25l. to be sued for in the name of the supervisor.

Such penalties to be applied to the use of the county.

II. *And be it further enacted by the authority aforesaid*, That the supervisors of each city, town and place, in each of the respective counties of this State, shall yearly on the last Tuesday of May in every year, meet together at the Court-House of the same county, and at such other time or times, and place or places, as they shall find and judge necessary and convenient, and examine, oversee, settle and allow all such accounts as the same county is or shall be chargeable with: and examine, compute and ascertain what sum of money ought to be raised in the same county in that year for the payment of such accounts, and for defraying the public and necessary contingent charges of the same county; and shall add to the same, all such other sum and sums of money, as are or shall be imposed or laid on the same county by any law of this State, and to be raised in that year in the same county, and shall then fix and ascertain by such ways and in such manner as they shall judge to be just and equitable what proportion or how much of such whole sum then to be raised in the same county, ought to be raised and paid by each city, town and place in the same county; and shall then add to the sum so to be raised and paid by each city, town and place in the same county, the sum to be raised in that year, by the same city, town or place for the maintenance and support of the poor of the same city, town or place; and shall thereupon cause a computation to be made what each pound of the sum total of the valuation of the estates in each city, town and place, ought to pay off the sum so to be raised in the same city, town or place, and cause the sum to be paid by each person to be inserted in the same lists or assessments opposite to his or her name; and shall then and before the first day of September in every year transmit the list or assessment of each city, town and place, so completed to the collector of the same city, town or place, with a warrant under their hands and seals thereto annexed, commanding the same collector to collect of and from all and every the person and persons named in the said list or assessment, the several and respective sums mentioned and contained in the last column of the said list or assessment, and opposite to their respective names; and to pay such part thereof as shall be raised for the maintenance and support of the poor of the same city, town or place, to the overseers of the poor of the same city, town or place, and the residue thereof to the Treasurer of the county in which such city, town or place is situated, on or before the first Tuesday of February then next. And in case any person or persons shall refuse or neglect to pay the sums at which his, her or their estate or estates shall be rated or taxed as aforesaid, the collector to whom the same ought to be paid, shall be, and hereby is authorized and required to levy the same, by distress and sale of the goods and chattels of the person or persons who ought to pay the same; and if the goods and chattels so distrained shall be sold for more than the amount of such tax, and the charges of the distress and sale, the overplus shall be returned to the owner of such goods and chattels; and that a clause for this purpose shall be inserted in every such warrant so to be sent to the respective collectors.

Supervisors to meet annually to examine and allow the accounts of their county, and determine what sums must be raised to pay the same.

And shall add thereto such sums as are directed to be raised by any law of the State, and apportion the same among the towns.

And to compute what each pound of the value of all estates shall pay, and send the same to collectors.

With a warrant for collecting the same, and directions how to pay it.

And in case any person refuses to pay the sum at which he is rated, collector to levy the same.

III. *And*

Persons in possession of real estates when liable to pay the tax for the same, and where no goods or chattels can be found collector may sell timber, woods, &c.

Provido.

Collector to pay overseer of the poor out of the first monies he receives, and on refusal so to do, overseers to recover the same with costs of suit.

If collector refuses to pay the county treasury the monies directed to be paid to him, how the Treasurer is to proceed for the recovery thereof.

Where no goods can be found whereon to levy, collector not to be charged with such deficiency.

But to deliver an account of such deficiency to county

III. *And be it further enacted by the authority aforesaid,* That the person in possession of any real estate, at the time any tax is to be collected, shall be liable to pay the tax imposed on such real estate; and in case any other person, by agreement or otherwise, ought to pay such tax, the possessor who shall pay the same, shall and may recover the amount thereof from the person who ought to have paid the same. *And further,* That where any land, meadow or real estate is or shall be taxed, and no goods or chattels shall be found thereon, whereof sufficient distress can be made for the said tax, then and in every such case it shall and may be lawful for the collector, who ought to collect the same tax, and he is hereby authorized and required to sell at public-vendue, giving at least six days previous notice of such sale, by advertisement, to be put up at two or more public places in the same town, so much of the timber, wood or grass, growing or being thereon as shall be sufficient to pay the said tax, with the charges of such advertisement and sale; and it shall and may be lawful to and for the purchaser, his executors, administrators and assigns, at any time within six months after such sale, to enter upon such lands, meadow or real estate, and to cut, take and carry away such timber, wood and grass, or in case such grass cannot be cut and made into hay, then to use the same grass for pasture. *Provided always,* that when it shall become necessary to sell timber or wood for the obtaining such tax, six weeks notice in manner aforesaid shall be given by the collector; and every such collector is hereby directed and required to pay the sum in such warrant directed, to be paid to the overseers of the poor out of the first monies he shall collect and receive. And if any such collector shall neglect or refuse to pay the same, by the time in such warrant mentioned, it shall and may be lawful for the overseers of the poor to whom the same ought to be paid, or their successors in office, to recover the same with costs of suit, in any Court of Record, against such collector, his heirs, executors or administrators, in an action of debt, in the name of the overseers of the poor of the city or town, for which they are or shall be chosen: And it shall be sufficient for the plaintiff to set forth in the declaration, in any such suit or action, that such collector, at the time he ought to have paid the said money became indebted to the overseers of the poor of the city or town mentioned in such warrant, in the sum thereby directed to be paid to them, by virtue of an act entitled, "An Act for defraying the public and necessary charge in the respective counties of this State," to be paid to the overseers of the poor of the city or town aforesaid, when he should be thereunto required, and to give the special matter in evidence; and no such suit or action shall be abated or discontinued by the death or by the expiration of the office of such overseers of the poor, or any or either of them, but the same shall or may be continued and prosecuted to effect, by the survivors and successors in office of the same overseers. And if any collector shall neglect or refuse to pay to the county Treasurer, the money directed by any such warrant to be paid to him by the time mentioned in such warrant, then and in every such case the Treasurer of the same county for the time being, is hereby authorized and required to issue a warrant under his hand and seal, directed to the Sheriff of the county, commanding him to levy the same, or if a part is paid, so much as such collector shall be deficient of the lands and tenements, goods and chattels of such collector: And if the lands and tenements, goods and chattels of such collector shall not be sufficient to pay the whole sum directed to be levied, then to take such collector and confine him in the common goal of the same county, without bail or mainprize, there to remain until the deficiency shall be paid; and every Sheriff to whom any such warrant shall be directed and delivered, shall immediately cause the same to be executed, and shall within thirty days after receiving such warrant make return thereof to the Treasurer of the same county, and pay to him the monies levied by virtue thereof deducting for his fees, *six pence* in the pound upon the sum so levied, and no more. But in all cases where no goods or chattels can be found, whereon to levy the tax imposed upon any person mentioned in any such tax-list or assessment, or not sufficient to pay the whole, the collector shall not be charged with more than he shall or might have levied or received. And every collector is hereby directed and required to deliver a true account, upon oath, of all such deficiencies to the county Treasurer, at the time he is or shall be directed to make

such payment to such county Treasurer; and if any collector shall neglect or refuse to deliver such account, such collector shall be accountable for the whole sum by him to be collected; and the county Treasurer shall deliver all such accounts of deficiencies to the supervisors of the same county, at their next meeting, after he shall have received the same; and each collector shall have and retain for his service out of the monies by him collected *one shilling* for every *twenty shillings* he shall collect, and no more.

Treasurer, and he to the supervisors.

Collector's allowance.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the supervisors of each county respectively to appoint some suitable and proper person to be their clerk, who shall be called the clerk of the supervisors of the county for which he shall be appointed, and shall hold his office during the pleasure of the supervisors of the same county, and shall have such allowance for his services, as the supervisors of the same county shall from time to time think proper to appoint and allow, and such allowance and the necessary charges of the supervisors at their respective meetings shall be considered, raised and levied, as part of the public and necessary contingent charge of the same county.

Supervisors to appoint a clerk with an allowance for his services &c. to be paid by the county.

V. *And be it further enacted by the authority aforesaid*, That the supervisors of each county respectively, shall be and hereby are authorized and required to appoint some reputable freeholder of the same county, to be Treasurer of the same county, who shall hold his office during the pleasure of the supervisors of the same county, and shall receive all such monies as shall be raised in the same county, for defraying the public and necessary charge of the same county, or for the use and service of the government of this State. And all such monies as shall come into his hands for defraying the public and necessary charges of the same county, shall be applied and paid by him to such persons and in such manner as the supervisors of the same county for the time being, shall by order entered in their books, or by warrant or warrants under their hands and seals, from time to time direct; and all such monies as shall come into his hands for the use or service of the government of this State, shall be paid by him to the Treasurer of this State for the time being, at such times as shall be directed by the laws, by virtue whereof the same monies shall be raised or come into the hands of such county Treasurer. And the Treasurer of each county shall keep just, true and distinct accounts of the receipts, disbursements and payments, of all monies which shall come into his hands as Treasurer of the county, and enter the same in a book or books to be kept for that purpose, and once in every year, at the annual meeting of the supervisors of the same county, or at such other time as they shall direct, shall bring in and exhibit all such books and accounts, and all the vouchers relating to the same to them for their examination and audit thereof; And the Treasurer of each county and the executors and administrators of such Treasurer, shall be and hereby is and are made liable to an action of account to the supervisors of the same county, for all monies which shall come into his hands as Treasurer of the same county; and every such Treasurer and his executors and administrators, shall and may plead and discharge himself and themselves, in such manner as other receivers or bailiffs may, can or ought to do by law. And the supervisors of each county for the time being shall be, and hereby are impowered to sue, prosecute and maintain such actions of account for the use of their county, in the name of the supervisors of the same county. *And further*, That each county Treasurer shall have and retain for his services, *three pence* for every *twenty shillings* which he shall receive and pay, to wit, *one penny half-penny* for receiving, and *one penny half-penny* for paying.

Supervisors to appoint a county Treasurer, to hold his office during their pleasure.

Such Treasurer how to pay all monies which shall come into his hands.

And to keep accounts of the receipts and payments of all such monies, and annually lay the same before the supervisors.

Treasurer made liable to an action of account to the supervisors.

Treasurer's allowance.

VI. *And be it further enacted by the authority aforesaid*, That every county Treasurer in each respective county, as soon after he shall be appointed, as conveniently may be, and before he enter upon the business of his office, shall enter into a bond or obligation, with sufficient security to the supervisors of the county of which he is appointed Treasurer, in such sum as the supervisors of the same county, for the time being, shall think proper and direct, with condition well and faithfully to execute the office of Treasurer of the same county, and to pay all such monies as shall come to his hands as Treasurer of the same county, according to law; and to render a just and true account thereof to the supervisors of the same county, when thereunto required.

Treasurer to enter into bond to the supervisors of the county for the faithful performance of his duty.

And on non performance of the condition of such bond, supervisors to commence a suit thereon.

Monies recovered on such bond how to be applied.

Supervisors yearly before this ascertain the sum to be raised, to examine the deficiencies of the last year, and to direct them to be made good.

On the death or removal from office of any county Treasurer, his books to be delivered to his successor in office.

Five hundred pound to be forfeited for refusing to make such delivery.

Majority of the supervisors of a county to constitute a legal meeting, & no action to be abated by the death of any of them.

And if any Treasurer of any county shall not comply with the condition of such bond or obligation, it shall and may be lawful for the supervisors of the same county, for the time being, to commence and prosecute an action or actions of debt on such bond, in any Court of Record, in the name of the supervisors of such county, against the obligors in the same bond, or either of them, or the heirs, executors or administrators of all, or any or either of them. And all monies recovered upon any such bond or obligation shall be applied towards defraying the public and necessary charge of the same county, in such manner as the supervisors of the same county, for the time being shall direct.

VII. *And be it further enacted by the authority aforesaid,* That the supervisors of each county respectively, shall yearly and every year, before they ascertain the amount of the taxes to be raised in the same county in that year, carefully examine what sums remain unpaid of taxes before laid or assessed; and where they find any sum or sums of money on any such tax uncollected, and that the person or persons estate or estates charged with the same, is or are sufficient to pay the same, they shall issue their warrant or warrants under their hands and seals to the collectors of the respective cities and towns for the time being, where such sums remain unpaid for the collection thereof: And every collector to whom any such warrant shall be directed, is hereby authorised and required to levy and collect all such sums in such warrant specified, in the same manner, and under the same penalties as he is or shall be authorised and required to levy and collect the taxes for the public and necessary charge of the same county; and shall pay the same to the Treasurer of the same county, at such time as shall be specified in the same warrant. And if any collector shall neglect his duty herein, he shall be chargeable with the amount of the monies directed to be levied and collected; and where the said supervisors shall find that any deficiency of any of the said taxes has happened in any city, town or place by the insolvency or the want of goods and chattels whereon to levy the said tax, of any person or persons upon whom the same was charged, or by the insolvency of the collector, or otherwise, they shall add such deficiency to, and cause the same to be raised with and as part of the tax to be laid on the same city, town or place. And in every such case the county Treasurer shall credit and apply the first monies he shall receive on such tax, from such city, town or place, to the payment and discharge of such deficiency.

VIII. *And be it further enacted by the authority aforesaid,* That upon the death, resignation or removal from office of any county Treasurer, all the books and papers belonging to the same office shall be delivered to his successor in office, upon the oath of the preceding Treasurer, or in case of his death, upon the oath of his executors or administrators; and if any such preceding Treasurer, or his executors or administrators, shall refuse or neglect to deliver the same, upon oath as aforesaid, being lawfully demanded, every such person shall forfeit and pay for every such refusal or neglect the sum of *five hundred pounds*, to be recovered with costs of suit, by the supervisors of the same county for the time being, for the use of the same county, in the name of the supervisors of such county, by action of debt, bill, plaint or information in any Court of Record; and in every such action, suit or information, it shall be sufficient for the plaintiffs to set forth, that the defendant on the day such demand was made, became indebted to the supervisors of such county in the sum of *five hundred pounds* as a forfeiture for refusing and neglecting to deliver up the books and papers belonging to the office of Treasurer of such county, according to the form of an act, entitled, "An Act for defraying the public and necessary charge in the respective counties of this State," to be paid to the supervisors of the same county for the time being, when he should be thereunto required, and to give the special matter in evidence.

IX. *And be it further enacted by the authority aforesaid,* That the major part of the supervisors of any county being met together at their annual meeting, or at any other meeting of the supervisors of the same county, shall be deemed a legal meeting of the supervisors of the same county, and it shall and may be lawful for such major part of them so met together, and they shall be and hereby are authorised and required to do, execute and perform all and every matter and thing which the supervisors of the same

same county are by this act authorised or required to do, execute and perform, as fully in every respect, as if all the supervisors of the same county had attended at such meeting; and all questions which may arise at any such meeting shall be determined according to the judgment and opinion of the major part of the supervisors attending at such meeting. *And further*, That no action or suit to be commenced or prosecuted by the supervisors of any county, by virtue or in pursuance of this act, shall be abated or discontinued, by the death or the expiration of the office of such supervisors, or any or either of them, but shall and may be continued and prosecuted to effect by the survivors and successors in office of the same supervisors.

X. *And be it further enacted by the authority aforesaid*, That every county Treasurer shall yearly, on or before the first day of March in every year, pay to the Treasurer of this State all such monies as he shall have received for taxes imposed on such county, for the use or service of the government of this State, and deliver to the Treasurer of this State an account on oath, of all such warrants as he shall have issued against any collector or collectors, and for what sums, and in case any county Treasurer shall not pay the monies by him received as aforesaid, by the time aforesaid, or shall not deliver such accounts, on oath to the Treasurer of this State as aforesaid, or shall not in case of default of any collector, issue his warrant as aforesaid, then and in every such case, it shall and may be lawful for the Treasurer of this State for the time being, and he is hereby authorised, directed and required, to proceed against such county Treasurer, in like manner as the county Treasurers are by this act authorised and required to proceed against delinquent collectors.

County Treasurer yearly before the first of March to pay to the State Treasurer all monies by him received for the use of government, together with an account of all warrants he may have issued against the collectors.

XI. *And be it further enacted by the authority aforesaid*, That if any supervisor or supervisors shall neglect or refuse to perform any of the duties required of him or them by this act, every supervisor so neglecting or refusing, shall, for every such offence, forfeit to the people of this State the sum of *one hundred pounds*, to be recovered, with costs, in any Court of Record, by action of debt, bill, plaint or information, by the Treasurer of this State, by and in the name of the Treasurer of the State of New-York; and in every such action, suit or information, it shall be sufficient for the plaintiff to set forth that the defendant at a certain time and place, became indebted to the Treasurer of the State of New-York, in the sum of *one hundred pounds*, as a forfeiture incurred, for refusing and neglecting to perform the duties required of him by virtue of an act, entitled "An Act for defraying the public and necessary charge in the respective counties of this State," to be paid to the Treasurer of the State of New-York for the time being, when he should be thereunto required, and to give the special matter in evidence. And no such action suit or information, shall be abated or discontinued, by the death of the Treasurer, or by his resignation or removal from office, but shall and may be continued and prosecuted to effect, by his successor in office. All which penalties when recovered shall remain in the Treasury of this State, subject to the order of the Legislature.

Supervisors for neglect of duty to forfeit one hundred pounds, to be recovered with costs by the State Treasurer.

And no action to be abated by the death of such Treasurer.

XII. *And be it further enacted by the authority aforesaid*, That this act shall not extend to the city and county of New-York.

This act not to extend to the city of New-York.

XIII. *And be it further enacted by the authority aforesaid*, That this act shall take effect and be in force from and after the first day of April which will be in the year of our Lord one thousand seven hundred and eighty-nine.

And to take effect after the 1st of April 1789.

C H A P. LXVI.

An ACT to enable the Corporation of Trinity-Church in the City of New-York to assume the Name therein mentioned. Passed the 10th of March 1788.

WHEREAS the Corporation of Trinity-Church in the city of New-York, were by an act of the Legislature of the late colony of New-York, passed the twenty-seventh day of June, in the year one thousand seven hundred and four, enabled to sue

Preamble.

sue

sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, by the name of the Rector and Inhabitants of the city of New-York, in communion of the Church of England, as by law established. And whereas the said act was repealed by the Legislature of this State, on the seventeenth day of April, in the year one thousand seven hundred and eighty-four, but the said corporation have continued to use the name therein specified; and by their humble petition to the Legislature of this State, have prayed that they might be enabled to assume and use the name of "The Rector and Inhabitants of the City of New-York, in Communion of the Protestant Episcopal Church in the State of New-York." *Therefore,*

Corporation of Trinity-Church to take and use a new name, and to sue and be sued thereby.

And all grants made to, or by them under their former name between certain times to be valid.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said corporation shall and may, from and immediately after the passing of this act, take and use the name of the Rector and Inhabitants of the city of New-York, in communion of the Protestant Episcopal Church in the State of New-York, and by the same name shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, and that all grants, deeds and conveyances made to or by the said corporation, between the said seventeenth day of April, in the year one thousand seven hundred and eighty-four, and the passing of this act, wherein they are named or mentioned by the name of the Rector and Inhabitants of the city of New-York in communion of the Church of England as by law established, or any other name or names, shall be good, valid and effectual in the law, in like manner as they would have been if the said act passed the twenty-seventh day of June, in the year one thousand seven hundred and four, had never been repealed, or as they would respectively have been if the said corporation had been properly named in such grants, deeds or conveyances.

C H A P. LXVII.

An ACT for the more effectual collection of Taxes in the City and County of New-York. Passed the 11th of March 1788.

Assessors of each ward in the city of New-York yearly to assess the value of all estates and make a list of all the inhabitants names.

And opposite to such name to set down the value of each persons estate.

And shall deliver such list to the Mayor, Recorder and Aldermen.

Assessor for neglect of such duty to forfeit twenty-five pounds, to be recovered for the use of the city in the name of the Chamberlain.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the assessors of each respective ward in the city of New-York, shall yearly between the fifteenth day of May and the first day of July, in every year, proceed to enquire into the value of the real and personal estate of every freeholder inhabitant and resident within the ward, whereof they are assessors, and shall make out a true and exact list of the names of all the freeholders, inhabitants and residents of the respective wards, for which they are or shall be chosen assessors, and of such who have estates therein, and do not reside there; and opposite to the name of every such person shall set down the real value of all his or her whole estate, real and personal, in the same word, as near as they can discover the same; and shall set down the value of the real estate of each person as aforesaid in one column, and the value of the personal estate of each person as aforesaid in another column of the same list or assessment, leaving room sufficient opposite thereto to insert the sum each person is to pay; and shall complete and deliver the same list or assessment, signed by such assessors, to the Mayor, Recorder and Aldermen of the said city, or in the clerk's office of the said city, on or before the first Monday in July, yearly and every year; and if any assessor shall refuse or neglect to perform the duty hereby required of him, every assessor so refusing or neglecting, shall forfeit and pay, for every such offence the sum of *twenty-five pounds*, to be sued for and recovered with costs of suit, for the use of the city and county of New-York, in any Court of Record, by action of debt, bill or plaint, by and in the name of the Treasurer or Chamberlain of the said city: And in every such action or suit it shall be sufficient for the plaintiff to set forth, that the defendant at a certain time and place became indebted to the Treasurer or Chamberlain of

of the said city in the said sum of *twenty-five pounds*, as a forfeiture incurred for refusing and neglecting to perform the duty required of him by virtue of an act, entitled, "An Act for the more effectual collection of taxes in the city and county of New-York," to be paid to the Treasurer or Chamberlain of the said city, when he should be thereunto required, and to give the special matter in evidence. And no such action or suit shall be abated or discontinued, by the death of the Treasurer or Chamberlain of the said city, or by his resignation or removal from office; but shall and may be continued and prosecuted to effect, by his successor in office. And all such penalties when recovered shall be applied to the use of the said city and county, in the manner herein aftermentioned.

And no such action to be discontinued by the death of the Chamberlain.

II. *And be it further enacted by the authority aforesaid*, That the Mayor, Recorder and Aldermen of the said city, shall yearly on the second Tuesday in July, in every year, meet together at the City-Hall of the said city, and at such other times and places, as they shall find and judge necessary and convenient; and examine, compute and ascertain what sum and sums of money is or are imposed or laid on the same city and county, by any law or laws of this State, and to be raised in that year in the same city and county for the maintenance of the poor, and for defraying the other contingent expences arising in the said city and county, or for any other purposes in the said city and county, or for the use or service of the government of this State; and shall then fix and ascertain by such ways, and in such manner as they shall judge to be just and equitable, what proportion or how much of such whole sum then to be raised in the same city and county ought to be raised and paid by each ward in the same city; and shall thereupon cause a computation to be made, what each pound of the sum total of the valuation of the estates in each ward ought to pay, of the sum so to be raised in the same ward, and cause the sum to be paid by each person to be inserted in the same list or assessment, opposite to his or her name; and shall immediately after the fourteenth day of October in every year, cause the list or assessment of each ward, so completed, to be delivered to the collector of the same ward, with a warrant under their hands and seals thereto annexed, commanding the same collector to collect of and from all and every the person and persons named in the said list or assessment, the several and respective sums mentioned and contained in the last column of the said list or assessment, and opposite to their respective names, and to pay the monies which shall by virtue of such warrant be raised in such respective ward, to the Treasurer or Chamberlain of the said city, on or before the third Tuesday in February then next. And in case any person or persons shall refuse or neglect to pay the sums at which his, her or their estate or estates shall be rated or taxed as aforesaid, the collector to whom the same ought to be paid shall be and hereby is authorised and required to levy the same, by distress and sale of the goods and chattels of the person or persons who ought to pay the same: And if the goods and chattels so distrained shall be sold for more than the amount of such tax, and the charges of the distress and sale; the overplus shall be returned to the owner of such goods and chattels; and that a clause for this purpose shall be inserted in every such warrant, so to be delivered to the respective collectors.

Mayor, Recorder and Aldermen to meet annually, and ascertain what sums of money are imposed by law on the city and county.

And to ascertain what each ward shall pay.

And to compute what each pound of the value of all estates shall pay, and send the same to the collector.

With a warrant for collecting the same, and directions how to pay it.

And if any person refuses to pay the sum at which he is rated, collector to levy the same.

III. *And be it further enacted by the authority aforesaid*, That the person or persons in possession of any house, or other real estate, at the time any tax is to be collected, shall be liable to pay the tax on such house, or other real estate; and in case of non payment of such tax by the person or persons in possession of such house or other real estate, and in case of want of sufficient goods and chattels on the premises, whereof the same can be levied by distress as aforesaid, that then it shall and may be lawful to and for such collector to require and demand the said tax, of and from the person who shall be named in such list or assessment, as the owner or proprietor of such house or other real estate, in whatsoever ward of the said city he or she may reside; and in case of non-payment thereof, to levy the same by distress and sale of the goods and chattels of such owner, rendering the overplus if any there be, after deducting such tax and the charges of such distress and sale, to the owner thereof. And in case any other person than the person paying such tax, by agreement or otherwise, ought to pay such tax,

Persons in possession of real estates liable to pay the tax for the same, and if no chattels can be found whereon to levy in case of refusal, proprietor to pay the tax.

the

the possessor or other person who shall pay the same, shall and may retain or recover the amount thereof, from the person who ought to have paid the same.

If the collector neglects to pay the monies, Chamberlain to issue his warrant to the Sheriff for levying the same.

IV. *And be it further enacted by the authority aforesaid,* That if the collector of any ward in the said city shall neglect or refuse to pay the monies by such warrant directed, to be by him collected and paid, by the time in such warrant mentioned, then and in every such case the Treasurer or Chamberlain of the said city, for the time being, is hereby authorized and required, to issue a warrant under his hand and seal, directed to the Sheriff of the said city and county, commanding him to levy the same; or if a part is paid, so much as such collector shall be deficient of the goods and chattels, lands and tenements of such collector; and if the goods and chattels, lands and tenements of such collector shall not be sufficient to pay the whole sum directed to be levied, then to take such collector and confine him in the common goal of the said city and county, without bail or mainprize, there to remain until such tax or the deficiency thereof shall be paid: And every Sheriff to whom any such warrant shall be directed and delivered, shall immediately cause the same to be executed, and shall within thirty days after receiving such warrant make return thereof to the Treasurer or Chamberlain of the said city, and pay to him the monies levied by virtue thereof, deducting for his fees, *six pence* in the pound upon the sum so levied, and no more. But in all cases where no goods or chattels can be found, whereon to levy the tax imposed upon any person mentioned in any such tax-list or assessment, or not sufficient to pay the whole, the collector shall not be charged with more than he shall or might have levied or received. And every collector is hereby directed and required to deliver a true account upon oath, of all such deficiencies to the Treasurer or Chamberlain of the said city, at the time he is or shall be directed to make such payment to the said Treasurer or Chamberlain: And if any collector shall neglect or refuse to deliver such account, such collector shall be accountable for the whole sum by him to be collected; and the Treasurer or Chamberlain shall deliver all such accounts of deficiencies to the Mayor, Recorder and Aldermen of the said city, at their next meeting, after he shall have received the same, or into the clerks office of the same city: And each collector shall have and retain for his service, out of the monies by him collected, *six pence* for every *twenty shillings* he shall collect, and no more.

And Sheriff immediately to cause the same to be executed, and to pay the monies to Chamberlain.

And Chamberlain to deliver such account to the Mayor, &c. Collectors allowance

Chamberlain to receive all monies raised in said city.

How to pay the monies raised for the support of the poor.

How to pay those raised for the use of government.

Chamberlain to keep accounts of all receipts and payments, and once in every year exhibit the same to the Mayor, Recorder,

Chamberlain liable to an action of account for monies coming into his hands, in the name of the Mayor, &c.

V. *And be it further enacted by the authority aforesaid,* That the Treasurer or Chamberlain of the said city for the time being, shall receive all such monies as shall be raised in the same city and county, for the maintainance of the poor, and for defraying the other contingent expences in the said city and county, or for any other purposes in the said city and county, or for the use or service of the government of this State. And all such monies as shall come into his hands for the maintenance of the poor, and for defraying the other contingent expences in the said city and county, or for any other purposes in the said city and county, shall be disposed of in manner herein after mentioned. And all such monies as shall come into his hands, for the use or service of the government of this State, shall be paid by him to the Treasurer of this State for the time being, at such times as shall be directed by the laws, by virtue whereof the same monies shall be raised or come into the hands of the Treasurer or Chamberlain of the said city. And the said Treasurer or Chamberlain shall keep just, true and distinct accounts of the receipts, disbursements and payments, of all monies which shall come into his hands, as Treasurer or Chamberlain of the said city, by virtue of any law of this State, and enter the same in a book or books to be kept for that purpose; and once in every year, between the twenty-ninth day of September and the fourteenth day of October in every year, and at such other times and places as the said Mayor, Recorder and Aldermen shall direct, shall bring in and exhibit all such books and accounts, and all the vouchers relating thereto, to them for their examination and audit thereof. *And further,* The Treasurer or Chamberlain of the said city for the time being, and the executors and administrators of such Treasurer or Chamberlain, shall be, and hereby is and are made liable to an action of account, to the Mayor, Aldermen and Commonalty of the city of New-York, for all monies which shall come into his hands, as Treasurer or Chamberlain of the said city. And every such Treasurer, and

and his executors and administrators, shall and may plead and discharge himself and themselves in such manner as other receivers or bailiffs may, can or ought to do, by law; and the Mayor, Aldermen and Commonalty of the said city, shall be, and hereby are empowered to sue, prosecute and maintain such actions of account for the use of the city and county of New-York. *And further*, Every Treasurer or Chamberlain of the said city, for the time being, shall have and retain for his services *two pence* for every *twenty shillings* he shall receive and pay, to wit, *one penny* for receiving, and *one penny* for paying.

Chamberlains allowance.

VI. *And be it further enacted by the authority aforesaid*, That every Treasurer or Chamberlain of the said city for the time being, as soon after he shall be appointed as conveniently may be, and before he enter upon the business of his office, shall enter into a bond or obligation, with sufficient sureties, to the Mayor, Aldermen and Commonalty of the city of New-York in such sum as the Mayor, Recorder and Aldermen for the time being shall think proper and direct, with condition well and faithfully to execute the office of Treasurer or Chamberlain of the same city, and to pay all such monies as shall come into his hands as Treasurer or Chamberlain of the said city, by virtue of any law of this State, according to law; and to render a just and true account thereof, to the Mayor, Recorder and Aldermen of the said city when thereunto required. And if any Treasurer or Chamberlain of the said city shall not comply with the condition of such bond or obligation, it shall and may be lawful for the Mayor, Aldermen and Commonalty of the said city, to commence and prosecute an action or actions of debt, on such bond, in any Court of Record, against the obligors in the same bond, or any or either of them, or the heirs, executors or administrators of all, or any, or either of them. And all monies recovered upon any such bond or obligation shall be applied towards the defraying the contingent expences of the said city and county, in manner hereafter mentioned.

Chamberlain to enter into bond with the Mayor, &c. for faithful performance of his office.

And to be prosecuted by the Mayor, &c. for not complying with the condition of such bond.

Forfeitures when recovered how to be applied.

VII. *And be it further enacted by the authority aforesaid*, That the Mayor, Recorder and Aldermen of the said city for the time being, shall yearly and every year, before they ascertain the amount of the taxes to be raised in the same city and county, in that year, carefully examine, what sums remain unpaid of taxes, before laid or assessed; and where they find any sum or sums of money on any tax uncollected, and that the person or persons, estate or estates charged with the same, is or are sufficient to pay the same, they shall issue their warrant or warrants, under their hands and seals, to the collectors of the respective wards, for the time being, where such sums remain unpaid, for the collection thereof. And every collector to whom any such warrant shall be directed, is hereby authorized and required to levy and collect all such sums in such warrant specified, in the same manner and under the same penalties as in this act are above directed and provided with respect to other taxes; and shall pay the same to the Treasurer or Chamberlain of the said city, at such time as shall be specified in the same warrant. And if any collector shall neglect his duty herein, he shall be chargeable with the amount of the monies directed to be levied and collected by him: And where the said Mayor, Recorder and Aldermen shall find, that the deficiency of any taxes has happened in any ward, by the insolvency, or the want of goods and chattels, whereon to levy the said tax, of any person or persons upon whom the same was charged, or by the insolvency of the collector, or otherwise, they shall add such deficiency to, and cause the same to be raised with, and as part of the tax to be laid on the same ward: And in every such case the Treasurer or Chamberlain of the said city, for the time being, shall credit and apply the first monies he shall receive on such tax, from such ward, to the payment and discharge of such deficiency.

Mayor, &c. to examine yearly into the deficiencies of tax, and how to make them good.

VIII. *And be it further enacted by the authority aforesaid*, That upon the death, resignation or removal from office, of the Treasurer or Chamberlain of the said city, for the time being, all the books and papers belonging to the same office shall be delivered to his successor in office, upon the oath of the preceeding Treasurer or Chamberlain, or in case of his death upon the oath of his executors or administrators: And if any such preceeding Treasurer, or his executors or administrators shall refuse or neglect to deliver the same upon oath as aforesaid, being lawfully demanded, every such person

On the death or removal from office of any Chamberlain books to be delivered to his successor, and in case of refusal 500l. to be forfeited.

person shall forfeit and pay, for every such refusal or neglect the sum of *five hundred pounds*, to be recovered with costs of suit, by and in the name of the Mayor, Aldermen and Commonalty of the said city, for the use of the said city and county of New-York, by action of debt, bill or plaint, in any Court of Record; and in every such action or suit it shall be sufficient for the plaintiff to set forth, that the defendant on the day such demand was made, became indebted to the Mayor, Aldermen and Commonalty of the said city, in the sum of *five hundred pounds*, as a forfeiture for refusing and neglecting to deliver up the books and papers belonging to the office of Treasurer or Chamberlain of the city of New-York, according to the form of an act, entitled, "An Act for the more effectual collection of taxes in the city and county of New-York," to be paid to the Mayor, Aldermen and Commonalty of the said city, when he should be thereunto required, and to give the special matter in evidence.

Mayor, Recorder and Aldermen or any five of them may execute all business.

IX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Mayor, Recorder and Aldermen of the said city for the time being, or any five or more of them (of whom the Mayor or Recorder always to be one) to do, execute and perform all and every act, matter and thing which the Mayor, Recorder and Aldermen of the said city, for the time being are by this act authorised or required to do, execute and perform; and all questions which may arise at any meeting, shall be determined according to the judgment and opinion of the major part of them the said Mayor, Recorder and Aldermen of the said city, attending at such meeting.

Chamberlain yearly to pay to State Treasurer all monies by him received for the use of government, with an account of all warrants issued by him against any collectors.

X. *And be it further enacted by the authority aforesaid,* That the Treasurer or Chamberlain of the said city, shall yearly; on or before the first day of March in every year, pay to the Treasurer of this State, all such monies as he shall have received for taxes imposed on the city and county of New-York, for the use or service of the government of this State; and also deliver to the Treasurer of this State, an account on oath of all such warrants, as he shall have issued against any collector or collectors, and for what sums: And in case such Treasurer or Chamberlain shall not pay the monies by him received as aforesaid, by the time aforesaid, or shall not deliver such account, on oath, to the Treasurer of this State as aforesaid, or shall not in case of default of any collector, issue his warrant as aforesaid, then and in every such case it shall and may be lawful for the Treasurer of this State, for the time being, and he is hereby authorised, directed and required to proceed against such Treasurer or Chamberlain of the said city, in like manner as the said Treasurer or Chamberlain is, in and by this act authorised and required to proceed against delinquent collectors.

And in case of neglect Treasurer how to proceed against him.

Mayor, Recorder or Aldermen for neglect of duty to forfeit 100l. with costs, to be recovered by the State Treasurer.

XI. *And be it further enacted by the authority aforesaid,* That if the Mayor, Recorder or any Alderman of the said city for the time being, shall neglect or refuse to perform any of the duties required of him by this act, every person so neglecting or refusing, shall for every such offence, forfeit to the people of this State, the sum of *one hundred pounds*, to be recovered with costs in any Court of Record, by action of debt, bill or plaint, by the Treasurer of this State, by and in the name of the Treasurer of the State of New-York; and in every such action or suit, it shall be sufficient for the plaintiff, to set forth, that the defendant at a certain time and place became indebted to the Treasurer of the State of New-York in the sum of *one hundred pounds* as a forfeiture incurred for refusing and neglecting to perform the duties required of him, by virtue of an act, entitled, "An Act for the more effectual collection of taxes in the city and county of New-York," to be paid to the Treasurer of the State of New-York for the time being, when he should be thereunto required, and to give the special matter in evidence. And no such action, suit or information, shall be abated or discontinued by the death of the Treasurer, or by his resignation or removal from office; but shall and may be continued and prosecuted to effect by his successor in office. All which penalties last mentioned, when recovered, shall remain in the treasury of this State subject to the order of the Legislature.

No action to abate by the death of the Treasurer.

Monies received by Chamberlain for the use of the poor, and defraying contingent expences, how to be paid.

XII. *And be it further enacted by the authority aforesaid,* That all such monies as shall come into the hands of the Treasurer or Chamberlain of the said city for the time being, for the maintenance of the poor, and for defraying the other contingent expences in the city and county of New-York, or for any other purposes in the said

said city and county, or for any penalties or forfeitures incurred by virtue of this act, and appropriated hereby to the use of the said city and county, shall be applied or paid by him to such persons and in such manner as the Mayor, Aldermen and Commonalty of the said city, in Common Council convened, by warrant under the hand of the Mayor or Recorder of the said city for the time being, presiding in such Common Council, shall from time to time direct and appoint.

XIII. *And be it further enacted by the authority aforesaid,* That the Treasurer or Chamberlain of the said city for the time being, shall yearly, on the first Monday in November in every year publish a state of all monies received by him for the use of the said city and county as aforesaid, and of the sums and purposes mentioned in each warrant drawn upon him as aforesaid, in one or more of the public news-papers printed in the said city of New-York.

Chamberlain yearly to publish a state of the monies by him received for the use of the city, &c.

C H A P. LXVIII.

An ACT to enable the Mayor, Recorder and Aldermen of the City of New-York to order the raising Monies by tax, for the maintenance of the Poor, and for defraying the other Contingent Expences arising in the City and County of New-York. Passed the 11th of March 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Mayor, Recorder and Aldermen of the city of New-York, or the major part of them (of whom the Mayor or Recorder to be one) shall be, and hereby are fully authorized and empowered, as soon as conveniently may be after the passing of this act, to order the raising the sum of *six thousand pounds* by a tax, on the estates real and personal of the freeholders and inhabitants within the city and county of New-York, to be applied to the support and maintenance of the poor of the said city and county, the Bridewell, and the Criminals from time to time confined in the prison of the said city and county, and to the repairing and maintaining the public roads and cleaning and improving the streets within the said city and county. And also a further sum of *four thousand pounds*, by a tax on the estates real and personal of the freeholders and inhabitants within the said city, on the south side of a line beginning at the outlet of the meadow of Leonard Lispenard, Esquire, into Hudson's-River; thence to and along the north side of the dwelling-house of Nicholas Bayard, Esquire; thence to and along the north side of the dwelling-house of Morgan Lewis, Esquire; and thence to and along the north side of the dwelling-house of Abraham Cannon, to the East-River, to be applied to the payment of so many watchmen, as the Mayor, Aldermen and Commonalty of the said city in Common Council convened, shall think necessary for guarding the said city; and also the purchasing of oil, providing lamps and repairing and attending the lamps, which now are or hereafter may be erected within the said city; which said several sums abovementioned, shall be rated and assessed according to the estate of each respective person so to be taxed, and collected in one payment, and paid into the hands of the Treasurer or Chamberlain of the said city, at such time as the said Mayor, Recorder and Aldermen, or the major part of them shall direct and appoint.

Mayor, Recorder, &c. of New-York to order the raising of 10,000l. by tax for the support of the poor, &c.

Which said sum shall be collected in one payment.

II. *And be it further enacted by the authority aforesaid,* That if the said Mayor, Recorder and Aldermen shall find any deficiency in any ward of any of the monies directed to be raised by the law, entitled, "An Act to enable the Mayor, Recorder and Aldermen of the city of New-York, to order the raising monies by tax for the maintenance of the poor, and for defraying the other contingent expences arising in the same city and county, and for other purposes," passed the twenty-sixth day of March in the year one thousand seven hundred and eighty-seven, shall have happened by the insolvency, or the want of goods and chattels whereon to levy the said tax, of any person

Mayor, Recorder, &c. directed to order the making good the deficiencies of a former tax, and how.

Collectors and Chamberlains allowance.

son or persons in such ward, on whom the same was assessed, they shall add such deficiency to the tax by this act directed to be raised, and lay the same upon such ward.

III. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the collectors in the several wards of the said city to retain in their own hands the sum of *six pence* in the pound, and no more, for their trouble in collecting and paying the monies by this act directed to be raised, to the Treasurer or Chamberlain of the said city. *And further*, That it shall and may be lawful for the Treasurer or Chamberlain of the same city, to retain in his own hands the sum of *two pence* in the pound, and no more, for his trouble in receiving and paying out the monies aforesaid.

C H A P. LXIX.

An ACT for building a Gaol, and repairing the Court-House in the City and County of Albany. Passed the 11th of March 1788.

Preamble.

WHEREAS the Court-House and Gaol in the city and county of Albany, has by experience been found inadequate to the custody of prisoners there committed.

Supervisors of Albany county to direct 2000l. to be raised for building a gaol, &c.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the supervisors of the said city and county of Albany for the time being, shall be, and they are hereby authorized and required to direct to be raised and levied, on the freeholders and inhabitants of the said city and county the sum of *two thousand pounds*, for building a gaol, and repairing the court-house in the said city and county; with an additional sum of *nine pence* in the pound, for collecting the same; which said sums shall be raised, levied and collected at the same time, and in like manner, as the other necessary and contingent charges of the said city and county, are levied and collected.

Said sum to be collected in two payments.

II. *And be it further enacted by the authority aforesaid*, That the one half part of the said sum of *two thousand pounds*, shall be collected and paid into the treasury of the said city and county, on or before the first day of November next, and the other half part thereof on or before the first day of November, one thousand seven hundred and eighty-nine.

Said gaol where to be built.

III. *And be it further enacted by the authority aforesaid*, That the said gaol for the said city and county of Albany, shall be built on such lot of ground or place in the said city of Albany, as the persons herein after named, together with the Mayor, Aldermen and Commonalty of the said city, or the majority of them, shall direct.

Certain persons appointed to build the said gaol, and repair the said court-house.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for Philip Schuyler, Abraham Ten Broeck, Tunis Ts. Van Vechten, Leonard Bronck, John Van Renselaer, John Younglove, James Gordon, Stephen Van Renselaer, and Abraham Oothoudt, Esquires, and the Mayor and Recorder of the said city for the time being, or a majority of them; and it is hereby made the duty of the said Philip Schuyler, Abraham Ten Broeck, Tunis Ts. Van Vechten, Leonard Bronck, John Van Renselaer, John Younglove, James Gordon, Stephen Van Renselaer, and Abraham Oothoudt, Esquires, and the Mayor and Recorder of the said city for the time being, to superintend and direct the building and erecting the said gaol, and repairing the said court-house, in the said city and county, by virtue of this act, in such manner as shall appear to them to be most eligible, consistent with good œconomy and the interest of the said city and county. And that the said Philip Schuyler, Abraham Ten Broeck, Tunis Ts. Van Vechten, Leonard Bronck, John Van Renselaer, John Younglove, James Gordon, Stephen Van Renselaer, Abraham Oothoudt, and the Mayor and Recorder of the said city for the time being, or a majority of them, shall and may contract with workmen, purchase materials and employ an overseer or overseers of such workmen. and from time to time draw upon the Treasurer of the said city and county, for such sums of money for the purposes aforesaid, as shall come into

And to purchase materials for the same.

the

the said Treasury by virtue of this act. And the said Treasurer is hereby required, out of the monies aforesaid, to pay to the order of the said Philip Schuyler, Abraham Ten Broeck, Tunis Ts. Van Vechten, Leonard Bronck, John Van Renselaer, John Younglove, James Gordon, Stephen Van Renselaer, Abraham Oothoudt, and the Mayor and Recorder of the said city for the time being, or a majority of them, the several sums of money to be by them drawn for. And it is hereby made the duty of the said Philip Schuyler, Abraham Ten Broeck, Tunis Ts. Van Vechten, Leonard Bronck, John Van Renselaer, John Younglove, James Gordon, Stephen Van Renselaer, Abraham Oothoudt, and the Mayor and Recorder of the said city for the time being, to account with the supervisors of the said city and county, for the monies by them to be received and expended for the purposes aforesaid, when thereunto required.

Treasurer of the said county to pay the monies to their order.

C H A P. LXX.

An ACT to enable the Mayor, Aldermen and Commonalty of the City of Albany in Common Council convened, to order the raising Monies by Tax for the purposes therein mentioned. Passed the 11th of March, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Mayor, Aldermen and Commonalty of the city of Albany, in Common Council convened, shall be, and hereby are fully empowered and authorised as soon as conveniently may be after the passing of this act, to order the raising a sum not exceeding five hundred pounds, by a tax on the estates real and personal, of all and every the freeholders and inhabitants within the said city, within half a mile of Hudsons River, and on the north side of a west line drawn from Hudsons River, at the north east corner of a tract of land commonly called the Dutch Church Pasture, to be applied to the payment of so many watchmen, as the Mayor, Aldermen and Commonalty of the said city of Albany shall think necessary for guarding the said city, and for such other purposes as to them shall appear necessary; which said sum above mentioned, shall be rated and assessed by the assessors of the said city for the time being, and levied and collected in the same manner as hath heretofore been accustomed within the said city, for levying and collecting the tax for the maintenance of the poor, and other contingent charges within the said city; and that the tax shall be paid into the hands of the Treasurer or Chamberlain of the said city for the time being, to be applied and disposed of from time to time, in such manner and proportions, for the purposes mentioned in this act, as the Mayor, Aldermen and Commonalty of the said city, in Common Council convened, shall direct and appoint.

Mayor, Aldermen, &c. of Albany to order the raising 500l. for the payment of watchmen, &c.

Said sum how to be assessed and collected.

C H A P. LXXI.

An ACT to prevent firing the Woods. Passed the 12th of March, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That if any person or persons shall set fire to the woods in any part of this State, he, she or they shall forfeit and pay the sum of ten pounds, to be recovered with costs of suit, in any court having cognizance thereof, by any person or persons who will sue and prosecute for the same; the one moiety of which forfeiture when recovered, shall be paid to the overseers of the poor of the town or place where the offence shall have been committed, for the use of the poor thereof; and the other moiety to the person or persons

A penalty of 10l. inflicted for setting fire to any woods, and how the same shall be recovered and applied.

fons who will sue and prosecute for the same to effect as aforesaid. And such offender or offenders shall moreover be liable to all such damages as any person or persons shall sustain by such firing the woods as aforesaid.

This act not to prevent any person from setting fire to his own woods.

II. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this act contained shall be construed to hinder or prevent any person or persons from firing his, her or their own woods; but if he, she or they do suffer such fire to extend beyond his, her or their own woods, he, she or they shall be subject to the penalty and forfeiture aforesaid, besides being answerable for the damages.

When any woods are set on fire how they are to be extinguished.

III. *And be it further enacted by the authority aforesaid,* That when the woods in any town within this State shall be on fire, the Justices of the Peace, the supervisor, the commissioners of the highways, and the officers of the militia, (not under the rank of Captain) residing in such town, shall and they are hereby severally authorized and required, to order such and so many of the inhabitants of such town liable to work on the highways, and who shall reside within the vicinity of the place where such fire shall be, as they shall severally deem necessary, to repair to the place where such fire shall prevail, and there to assist in extinguishing or stopping the progress of the same; and if any person so ordered to repair to, and assist in manner aforesaid, shall refuse or neglect to comply with such order, every person so disobeying such order shall forfeit and pay the sum of *four shillings*, for every day he shall so neglect or refuse to obey, to be recovered in a summary way, with costs, before any Justice of the Peace resident in such town, and the oath of the person having given such order, shall be sufficient evidence whereon to convict any delinquent, and the forfeiture so recovered shall be applied as a reward to such person or persons as the officers aforesaid, or the major part of them, shall deem best entitled thereto, for superior exertions at the extinguishment or in stopping the progress of such fire.

Former laws on this subject repealed.

IV. *And be it further enacted by the authority aforesaid,* That all former acts and laws of this State concerning firing the woods, shall be void, and hereby are repealed.

C H A P. LXXII.

An ACT supplementary to, and for the Amendment of the Act entitled "An Act imposing Duties on Goods and Merchandize imported into this State," and to relieve persons who have been aggrieved thereby. Passed the 12th of March, 1788.

Preamble.

WHEREAS some of the regulations contained in the act entitled "An act imposing duties on goods and merchandize imported into this State," have been found oppressive to individuals and injurious to trade; For remedy whereof

Ninth section of the impost act repealed.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the ninth section of the said recited act, and every matter and thing therein contained, shall be and the same is hereby repealed.

Penalty for landing goods before report and manifest thereof made.

II. *And be it further enacted by the authority aforesaid,* That if any master or person having the command or charge of any vessel, which hath already arrived, or shall hereafter arrive within this State, shall land or put on shore, or unlade any part of the cargo of such vessel within this State, before the report and manifest thereof made and delivered, according to the directions of the said recited act, or if the said master or other person having the command or charge of any such vessel, shall with intent to defraud the people of this State of the duties imposed or to be imposed on such goods, or any part thereof, omit to mention in the said manifest any of the bales, chests, trunks, cases, boxes, or other packages, or goods or merchandize on board of such vessel, all such goods and merchandize so landed, put on shore, unladen or omitted, together with such vessel, her tackle, apparel and furniture, shall be forfeited to the people of this State: The said forfeitures to be sued for, recovered and disposed of, in like

Penalty how to be recovered.

like manner as the forfeitures mentioned in the said recited act, are thereby directed to be sued for, recovered and disposed of. *Provided always*, that the forfeiture of such vessel, her tackle, apparel or furniture, shall not be incurred, unless the goods so landed, put on shore, unladen or omitted, shall exceed in value the sum of *twenty pounds*.

Proviso.

III. *And be it further enacted by the authority aforesaid*, That in all cases where any omission shall have been made in the manifest exhibited, or to be exhibited, by the master or person having the command or charge of any vessel, pursuant to the directions of the said act, and in all other cases, in which, by the said act, or any other law made or to be made for imposing duties on goods and merchandize imported into this State, the intent to defraud is, or shall be essential to the offence, it shall be lawful for such master or other person, having the command or charge of any such vessel, or the owner or consignee of any goods or merchandize, that shall or may be seized by virtue of the said act, or any other law of this State, made or to be made as aforesaid, to apply to the Treasurer, the Auditor and the Attorney-General of this State, for the time being (who are hereby appointed Commissioners for that purpose) or any two of them, and the said Commissioners or any two of them, shall and may thereupon, in a summary manner, hear and examine the circumstances of the case, and the evidence respecting the same; and if the said Commissioners or any two of them, shall upon such hearing be convinced that there was not *an intent to defraud*, they shall certify the same to the Collector of the customs of the port where such vessel shall be, or where such seizure shall have been made, and the said Collector shall thereupon admit a post-entry or entries to be made of the goods so omitted or seized as aforesaid, and shall proceed to take the duties thereupon, in like manner as if the same had been specified in the original manifest or invoice exhibited to him, according to the directions of the said recited act. *Provided always*,

Where the intent to defraud is essential to the offence, the owner of goods seized may apply to the Treasurer, &c.

Who shall enquire into the same, and if it appears there was no fraud intended, shall give a certificate thereof.

Collector shall then admit a post-entry to be made.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said Commissioners, or any two of them, to award to any person who shall have made any seizure by virtue of the said act, or any law for imposing duties on goods or merchandize imported into this State, such reasonable allowance for his costs and trouble in the same, as they shall think proper; which allowance shall be paid before any such certificate as herein before is mentioned, shall be given by the said Commissioners.

Commissioners may award costs to the person making seizure.

V. *And be it further enacted by the authority aforesaid*, That if the said Commissioners, or any two of them, shall certify as aforesaid, then and in every such case, the party in whose favor they shall so certify, shall be deemed innocent, and be discharged from all forfeitures and penalties, which he would otherwise have incurred by virtue of the said recited act, or any law for imposing duties on goods and merchandize imported into this State, any thing in the said act to the contrary thereof in any wise notwithstanding. *Provided always*, that nothing herein contained shall prevent any person or persons, whose goods or vessel may have been, or may hereafter be seized, for any of the causes specified in the said recited act, this act, or any other law for imposing duties on goods and merchandize imported into this State, from making such defence in any court, as they might have done, if no such application as aforesaid had been made to the said Commissioners.

Certificate being given by the Commissioners shall discharge the party from all forfeitures and penalties.

This act however not to prevent any person from making his defence in any court.

VI. *And be it further enacted by the authority aforesaid*, That all goods and merchandize imported into this State, after the last day of July last past, or that shall hereafter be imported in any ship or vessel, not built in this State, or any other of the United States, which ship or vessel, on the eleventh day of April last, was really and *bona fide* entirely the property of any of the citizens of this State, shall be subject to the like duties, in all respects, as if the same had been imported in a ship or vessel built within the United States, and no more; any thing in the said act to the contrary thereof in any wise notwithstanding; and if any greater or higher duties shall have been paid or received upon any such goods or merchandize so imported as aforesaid, since the said last day of July, the Collectors of the several ports within this State, respectively shall and may give credit for the amount of such additional duties, to the person or persons who may have paid or secured the same, and shall and may from time to time, dis-

Goods imported in vessels wholly the property of the citizens of this State, subject to the same duty as if the vessels had been built in the United States

If any greater duty has been paid on any such goods collector may give credit for the same.

count or allow the same amount, as so much received for duties upon any other goods or merchandize, which shall or may within three years next hereafter be imported into this State, by the same person or persons, his, her or their executors or administrators.

Collector to receive from John Broome and others the like duties for goods by them imported in the ship Bristol, as if the said ship had been wholly the property of citizens of this State.

And if any the said persons have paid any greater duties for such goods, collector may give credit for the same.

All forfeitures incurred on goods imported in vessels herein named, by reason of any omission in the manifest declared to be remitted.

Goods imported in vessels not wholly the property of citizens of this State to pay additional duties.

Proviso in favor of ships built in this State between certain times.

Additional duties to be paid after a certain time, on goods imported in vessels built in any of the United States and not wholly the property of citizens of this State.

No vessel of less burthen than 50 tons arriving from any of the United States, to be reported unless she has goods on board subject to duty.

VII. *And be it further enacted by the authority aforesaid,* That the Collector of the port of New-York, shall and may take and receive, from the several persons herein after mentioned, that is to say, John Broome, Moses Rogers, Nicholas Hoffman and Martin Hoffman, John B. Coles, Michael Roberts, Anthony Ackley, Lyde and Rogers, Embree and Shotwell, William Laight and Company, Daniel Phoenix, Pearl and Pell, William Ustick, junior, Seaman and Franklin, Abraham Brevoort, Andrew Hamersly, Peter Goelet, and Daniel Dunscomb, junior, the like duties upon the goods and merchandize by them respectively imported in the month of May or June last, by the ship Bristol, from Bristol in Great-Britain, as would have been due and payable for the same, if the said ship Bristol had been wholly the property of citizens of this State, and no more; and that if the said several persons, or any of them, shall have paid more than what the said duties would have amounted to, if the said ship Bristol had been wholly the property of citizens of this State, then and in such case the Collector of the port of New-York, for the time being, shall and may give credit to the said several persons respectively for the amount of what they shall or may have so respectively overpaid; and shall and may discount and allow the same amount, as so much received for any duties, which shall or may be payable within three years hereafter, by the said persons respectively, or their respective executors or administrators.

VIII. *And be it further enacted by the authority aforesaid,* That all forfeitures heretofore accrued or deemed to have accrued by reason of any omissions in the manifest of the several cargoes of the respective vessels following, that is to say, the ship Hudson, the ship Montgomery, the brigantine Betsey, the brigantine Mary, the schooner Maria, the sloop Friendship, and the sloop Sally (the said omissions having been by the Collector of the port of New-York, represented to the Legislature, as casual and not fraudulent) shall be and the same are hereby wholly remitted.

IX. *And be it further enacted by the authority aforesaid,* That all goods and merchandize, which shall or may hereafter be imported into this State, in any ship or vessel, which on the said eleventh day of April last was the property of any person or persons not a citizen or citizens of this State, or any other of the United States, either in the whole or in part, shall be subject to the additional duties specified in the second section of the said recited act, whether the same ship or vessel was built in this State, or any other of the United States of America or not. *Provided always,* that nothing herein contained shall extend to any ships or vessels, built in this State after the fifteenth day of March in the year one thousand, seven hundred and eighty-five and previous to the passing of this act, by or for any foreigner and rigged with cordage of the growth and manufacture of any of the United States.

X. *And be it further enacted by the authority aforesaid,* That from and after the first day of September next, there shall be paid upon all goods and merchandize imported into this State, in any ship or vessel built in the United States after the passing of the said recited act, and which shall not be really and *bona fide* wholly the property of a citizen or citizens of this State or any other of the United States, additional duties to the amount of one half of the additional duties, which would be payable for the same, by the second section of the said recited act, if such ship or vessel had not been built in any of the United States.

XI. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, it shall not be requisite for any boat or vessel, of less burthen than fifty tons, which shall arrive in any of the ports or harbours of this State, from any other of the United States to be reported, entered or cleared, at any of the Custom-Houses in this State, unless goods or merchandize, subject to the payment of duties by the said recited act or any other law of this State, shall be imported or brought in the same boat or vessel, any thing in the said recited act to the contrary thereof in any wise notwithstanding.

XII. *And*

XII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any citizen or citizens of this State, or any other of the United States, who shall hereafter import any goods or merchandize into this State, upon the importation thereof to lodge the same in such store or stores as the collectors of the respective ports within this State, shall or may from time to time appoint, there to be safely kept at the expence of the owner or owners, consignee or consignees thereof, under the care of such officer or officers of the customs, as the said collectors respectively shall and may from time to time appoint: The said owner or owners, consignee or consignees first giving security to pay the duties thereon, unless the same shall be exported in the manner, and at or before the time herein after for that purpose limited; and the owner or owners, consignee or consignees of such goods and merchandize, may from time to time export the same, or any part thereof from this State, without the payment of any duties thereon, at any time or times within eighteen calender months after the importation thereof, upon taking an oath, to be administered by the collector, that he, she or they, has or have no intention to evade the payment of the duties upon the said goods or merchandize, or to reland or otherwise bring back the same into this State. And the collector shall and may direct and appoint an officer of the customs or other person to superintend the lading of the said goods and merchandize, at the expence of the owner or owners thereof. And if any person or persons shall reland, or put on shore any of the said goods or merchandize so laden as aforesaid for exportation or bring the same into this State after the exportation thereof, without a permit from the collector for that purpose, and payment of the duties that were due thereon, upon their first importation into this State, the said goods and merchandize so relanded or brought back, shall be forfeited to the people of this State, and be sued for and disposed of as other forfeitures in the said recited act mentioned, are directed to be sued for and disposed of; and the person or persons, who shall reland or bring back the same, shall also forfeit the sum of *five hundred pounds*, to be recovered in any court having cognizance thereof, by action of debt, bill, plaint or information; the one half to the use of the people of this State, and the other half to such person or persons as shall sue for the same. *Provided always,* That nothing herein contained shall be construed to effect or prevent the exportation of goods or merchandize to any of the United States, pursuant to the directions of the said recited act: *And provided also,* That it shall and may be lawful for the owner or owners, consignee or consignees of such goods or merchandize, so stored as aforesaid, from time to time, under the inspection of the person appointed to keep the same, and by permit from the collector (which he is hereby required to give) to remove any part thereof; and take the same into his, her or their possession, upon paying to the collector, the amount of the duties due for such part of the same, as shall be so as aforesaid removed.

Goods belonging to a citizen or citizens of this or any of the United States, may be landed and kept under the care of the collector at the expence of the owners.

Said owners may within 18 months export the same without paying any duties.

Goods to be laden under the inspection of an officer.

And if relanded without payment of duties then to be forfeited with a penalty of 500l.

Proviso.

Further proviso.

XIII. *And be it further enacted by the authority aforesaid,* That in all cases where goods and merchandize shall or may be landed and sold, pursuant to the directions of the said recited act, to defray the necessary and incidental expences of any ship or vessel compelled to come into the port of New-York, by distress, it shall not be necessary for a report or manifest to be made or exhibited of any part of the cargo of such ship or vessel, not intended to be landed; nor shall any duties be payable upon any goods or merchandize landed out of such vessel, which shall be intended to be reladen or again exported; any thing in the said recited act to the contrary thereof in any wise notwithstanding. *Provided always,* That all goods or merchandize unladen from any such ship or vessel, and not intended to be sold as aforesaid, shall be stored in the manner directed by the last preceding clause of this act, with respect to goods and merchandize intended for exportation.

Vessels putting into any harbour in distress, not to make report of any part of the goods not intended to be sold for defraying her expences.

Proviso.

Recital.

And whereas it would be of public utility to encourage manufactures, and by every wholesome regulation, consistent with the spirit of liberty, to repress the further progress of luxury and extravagance; *Therefore,*

XIV. *Be it further enacted by the authority aforesaid,* That from and after the first day of September next the following duties shall be paid, in addition to those imposed by the said recited act, upon the following goods and merchandize imported into

Additional duties imposed on certain enumerated articles not the growth or

manufacture of the
United States.

into this State, and not of the growth of any of the United States, nor made or manufactured within the same, from the native productions of the said States, that is to say, On all kinds of silver and plated ware, jewelry and paste-work; silver plated or ivory handled knives and forks, carpets of all kinds; copper-plate furniture, silk and cotton velvets, muslins, lawns and cambricks, silks of all kinds, gauzes, ribbons, plated and metal buttons and buckles, gold and silver laces and trimmings, silk laces and thread laces, embroidered patterns for waistcoats and other parts of dress, women and children's stays, muffs and tippets, gloves and mittens of all sorts, silk and thread hose, ready made millenary and wearing apparel, perfumery, coffin-furniture, marble slabs and chimney-pieces, all glass and wares made wholly or in part of glass (except looking-glasses) instruments of music, tortoise-shell combs, brushes of all kinds, parchment, glue, walking-canes and whips, ostrich and other ornamental feathers, and artificial flowers, at and after the rate of *eight per cent ad valorem*. On every pound of spikes, and every pound of nails, commonly called fixpenny nails; and of all nails of a larger size, *one-half penny*: Upon every dozen of shovels and spades, *nine shillings*. Upon every dozen of hoes, *three shillings*. Upon all painters colours ground in oil, at and after the rate of *ten shillings* for each hundred weight. Upon every gallon of distilled spiritous liquors *four pence*. Upon every gallon of wine other than Madeira wine, *four pence*.

All goods import-
ed into this State by
persons not citizens
of the United States
subject to a duty of
two & half per cent,
more than if import-
ed by a citizen.

Additional duties
imposed by this act
how to be secured
and paid.

XV. *And be it further enacted by the authority aforesaid,* That all goods and merchandize brought or imported into this State, by any person not a citizen of this State, or any of the United States, shall be subject to an additional duty of two and an half per cent, more than such goods and merchandize would be subject to, if imported by any citizen of this State, or any other of the United States.

XVI. *And be it further enacted by the authority aforesaid,* That all the additional duties imposed by this act, shall be paid or secured in like manner, as if the same had been charged and specified in the first section of the said recited act, over and above the duties by the said act charged upon the importation of the said goods and merchandize respectively.

Masters of vessels
requiring a clear-
ance, to exhibit a
manifest of the car-
go to collector, who
shall yearly return
an account of all
articles imported
to the legislature.

XVII. *And be it further enacted by the authority aforesaid,* That the respective Collectors of the ports of New-York and Sagg Harbour, shall require of the master of every ship or other vessel requiring a clearance, an exact manifest of the cargo on board every such ship or vessel; and the said Collectors shall keep true and exact returns of each particular article so exported, and shall, on the last day in every year, make out the account thereof, to be laid before the Legislature, at their next meeting thereafter.

C H A P. LXXIII.

An ACT to repeal the Acts therein mentioned. Passed the 12th of March, 1788.

Certain acts here-
in enumerated
which were passed
under the late co-
lony declared to be
repealed.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the several acts or laws herein after mentioned, which were made in this State while the same was the province or colony of New-York, That is to say, An Act entitled "An Act for quieting and settling the disorders that have lately happened within this province, and for establishing and securing their Majesties present government against the like disorders for the future." And one other act entitled "An Act for the regulating the buildings, streets, lanes, wharfs, docks and allies of the city of New-York." And one other act entitled "An Act for settling fairs and markets in each respective city and county throughout the province." And one other act entitled "An Act for establishing certain rates upon such goods and merchandize as shall be brought unto their Majesties beam in the weigh-house at New-York." And one other act entitled "An Act against the profanation of the Lord's Day called Sunday." And one other act entitled "An Act for preventing of trespasses." And one other act entitled "An Act to enable the respective towns within this province to build and repair their meeting houses and other

other public buildings." And one other act entitled "An Act to ascertain the size of casks, weights and measures, and bricks within this colony." And one other act entitled "An act to encourage the baptizing of negro, Indian, and mulatto slaves." And one other act entitled "An act for the encouragement of whaling." And one other act entitled "An act for suppressing immorality." And one other act entitled "An act to prevent the removal of actions of twenty pounds from the Mayor's Court of New-York, and other courts." And one other act entitled "An act to prevent the impairing the fortifications." And one other act entitled "An act for preventing the multiplicity of law-suits." And one other act entitled "An act for destroying wolves and foxes in the county of Westchester." And one other act, entitled, "An act to encourage the destroying of foxes and wild-cats in King's-County, Queen's-County and Suffolk-County." And one other act, entitled, "An act to prevent vagrant and idle persons from being a charge and expence to any the counties, cities, towns, manors or precincts within this Province." And one other act, entitled, "An act to prevent boats and other vessels, and the goods put on board of them from being interrupted or molested, whilst their navigation is confined within this colony." And one other act, entitled, "An act for the effectual recovery of the arrears of the several taxes, and of the excise therein mentioned, and for securing the duties on slaves not imported in the city of New-York, and for empowering the Treasurer for these purposes." And one other act, entitled, "An act for the more effectual preventing and punishing the conspiracy and insurrection of negroes and other slaves, for the better regulating them, and for repealing the acts therein mentioned relating thereto," together with the acts therein mentioned. And one other act, entitled, "An act for granting to the people called Quakers residing within this colony, the same privileges, benefits and indulgencies, as by the laws and statutes now remaining in force in that part of Great-Britain called England, the people of that denomination are entitled unto within those dominions," together with the act thereby repealed. And one other act, entitled, "An act to prevent small stallions running at large in the colony of New-York, and to geld such as shall be under the size therein mentioned." And one other act, entitled, "An Act for regulating the ruts of waggons in Dutchess-County." And one other act, entitled, "An act to prevent the further importation of copper-money into this colony." And one other act, entitled, "An act for establishing and regulating courts to determine causes of forty shillings and under, in this colony." And one other act, entitled, "An act for the better extinguishing of fires that may happen within the city of New-York." And one other act, entitled, "An act for the preservation of oysters at and near Richmond-County in this colony." And one other act, entitled, "An Act to prevent abuses in the repacking of beef and pork." And one other act, entitled, "An act for explaining and rendering more effectual an act of the Governor, Council and the General-Assembly, entitled, "An act to oblige the inhabitants of each particular ward within the city of New-York, to make good their respective quotas of all public taxes." And one other act, entitled, "An act for limiting the continuance of the General-Assemblies of this colony." And one other act, entitled, "An act to empower the sworn repackers of the city of New-York, for the time being, to repack and brand half barrels of beef and pork." And one other act, entitled, "An act for the speedy punishing and releasing such persons from imprisonment as shall commit any criminal offences under the degree of grand larceny." And one other act, entitled, "An act for the speedy punishing and releasing such persons from imprisonment, as shall commit any criminal offences in the city and county of New-York, under the degree of grand larceny." And one other act, entitled, "An act to restrain unlawful and disorderly gaming-houses in the colony of New-York." And one other act, entitled, "An act to amend the practice of the law, and to regulate the giving of special bail." And one other act, entitled, "An act to make it felony without benefit of clergy, to counterfeit any Spanish, French or Portuguese gold or silver within this colony." And one other act, entitled, "An act for taking affidavits in the several counties within this colony, to be made use of in the Supreme Court, and empowering the attornies of the Supreme Court to practise in the Mayor's-Court

of the city of New-York." And one other act, entitled, "An act to restrain tavern-keepers and innholders from selling strong liquors to servants and apprentices, and from giving large credit to others." And one other act, entitled, "An act to prevent the importing or passing counterfeits of British half-pence or farthings." And one other act, entitled, "An act to enable and empower the Mayor, Aldermen and Commonalty of the city of New-York and their successors to prevent and remove particular nuisances within the same, to the southward of Fresh-Water." And one other act, entitled, "An act to prevent malicious informations in the Supreme Court of Judicature for the colony of New-York." And one other act, entitled, "An act to enable creditors more easily to recover their debts from joint-partners." And one other act, entitled, "An act to oblige all persons that come to inhabit or reside in the city of Albany and township of Schenectady in the county of Albany, in order to expose any goods, wares or merchandizes to sale, at any time after the annual assessments made for the necessary and contingent charges of the said city and township, to pay their just proportions towards the same." And one other act, entitled, "An act to enable the proprietors or owners of that part of the Great-Plains in Queen's-County, which lies within the townships of Hampstead and Oyster-Bay, and is used as a common of pasture to hang swinging gates on the highways running through the said plains, and to establish prudential orders and rules with respect to the management of the said common." And one other act, entitled, "An act to enforce and render more effectual an act, entitled an act to prevent vagrant and idle persons, from being a charge and expence to any of the counties, cities, towns, manors or precincts within this province." And one other act, entitled, "An act to prevent the selling of tickets in this colony, of any lotteries schemed or erected in any other colony." And one other act, entitled, "An act to regulate the practice of physick and surgery in the city of New-York." And one other act, entitled, "An act to increase the number of firemen within the city of New-York." And one other act, entitled, "An act to prevent transient persons from selling goods at vendue in the city and county of Albany, and counties of Westchester, Richmond and Dutchess." And one other act, entitled, "An act empowering those who shall be appointed foremen of grand-juries, to administer the usual oath to such witnesses as are to be examined before them." And one other act, entitled, "An act to prevent hunting with fire-arms in the city of New-York, and liberties thereof." And one other act, entitled, "An act to restrain the bringing of writs of *certiorari*, and writs of error, for removal of judgments given before Justices of the Peace within this colony." And one other act, entitled, "An act to make it felony without benefit of clergy, to counterfeit the bills of credit of any of his Majesty's colonies which pass in payment in the colony of New-York." And one other act, entitled, "An act for the regulation of servants." And one other act, entitled, "An act to relieve the cities and counties of this colony by the speedy trial of petty offenders." And one other act, entitled, "An act further to increase the number of firemen in the city of New-York." And one other act, entitled, "An act to prevent the abuse of writs and complaints in replevin." And one other act, entitled, "An act to prevent the inconveniencies arising from delays of causes after issue joined." And one other act, entitled, "An act for the better preventing frivolous and vexatious suits." And one other act, entitled, "An act to confirm certain acts and orders made by Justices of the Peace, being of the quorum, notwithstanding any defect in not expressing therein that such Justices of the Peace are of the quorum." And one other act, entitled, "An act to fix and ascertain from whence the mileage fees of the respective constables of the manor of Cortlandt in the county of Westchester, shall be computed." And one other act, entitled, "An act to enable any one of the coroners for the different counties within this colony, to make return to process." And one other act, entitled, "An act to increase the number of firemen in the city of New-York." And one other act, entitled, "An act to prevent the defacing the statues which are erected in the city of New-York." And one other act, entitled, "An act to prevent the killing and destroying of game in the manor of Philipsborough in the county of Westchester." And one other act, entitled, "An act to prevent aged and decrepid slaves

slaves from becoming burthenfome within this colony." And one other act, entitled, "An act to amend an act, entitled an act to confirm certain ancient conveyances and directing the manner of proving deeds to be recorded," And one other act, entitled, "An act for the amendment of the law, and the better advancement of justice." And one other act, entitled, "An act for punishing accessaries to felonies and receivers of stolen goods." And one other act, entitled, "An act for giving relief on promissory notes." And one other act, entitled, "An act to prevent the sale of goods at night by vendue, auction or out-cry in the city of New-York." And one other act, entitled, "An act respecting fairs in the counties of Albany, Cumberland and Tryon." And one other act, entitled, "An act to enable posthumous children to take estates as if born in their fathers life time." And one other act, entitled, "An act for the relief of creditors against fraudulent devisees." And one other act, entitled, "An act for the better preventing of excessive and deceitful gaming." And one other act, entitled, "An act for the better security and more easy recovery of rents, and renewal of leases, and to prevent frauds committed by tenants." And one other act, entitled, "An act for the better discovery of judgments in the Courts of Record in this colony." And one other act, entitled, "An act to prevent the depreciating the paper currency of this colony." And one other act, entitled, "An act to amend an act, entitled an act for the speedy punishing and releasing such persons from imprisonment as shall commit any criminal offences under the degree of grand larceny." And one other act, entitled, "An act to prevent the abatement of suits by the death of the parties." And one other act, entitled, "An act for the more easy collecting his Majesty's quit-rents in the Oblong-Patent, in the counties of Dutchess and Westchester." And one other act, entitled, "An act for the amendment of the law, for prevention of frauds and perjuries." And one other act, entitled, "An act for the relief of parishes and other places, from such charges as may arise from bastard children born within the same." And one other act, entitled, "An act for an indulgence to persons of scrupulous consciences, in the manner of administering oaths." And one other act, entitled, "An act to discourage tortious entries and possessions." And one other act, entitled, "An act to regulate waggons within the township of Schenectady, and the precincts of Orange-Town and Haverstraw, in the county of Orange." And one other act, entitled, "An act for the more convenient proving of deeds and mortgages." And one other act, entitled, "An act to divide the province and dependencies into shires and counties," and all other laws heretofore made in this State, while the same was the colony or province of New-York, for dividing the same into counties, or for dividing any of the counties thereof; or for ascertaining the bounds or limits of any of the same counties; and all laws heretofore made in this State, while the same was the colony or province of New-York, relating to highways, except such as relate to highways in King's-County, or Queen's-County, or either of them; and all laws heretofore made in this State, while the same was the colony or province of New-York, relating to the election of representatives to sit in General-Assembly, and relating to the allowance to, or wages of the said representatives, and every clause, matter and thing in the same acts and laws herein before mentioned, and in each and every of them contained, shall be, and hereby are repealed and made void.

II. *And be it further enacted by the authority aforesaid,* That the several acts and clauses of acts of the Legislature of this State herein after mentioned, that is to say, An act, entitled, "An act requiring all persons holding offices or places under the government of this State, to take the oaths therein prescribed and directed." And the act, entitled, "An act for altering the judgments heretofore by law prescribed against persons found guilty of high treason and petty treason; and those who on being arraigned for treason or felony, stand mute, or refuse to plead." And the act, entitled, "An act for the better determination of personal actions, depending upon accounts." And the act, entitled, "An act for the better securing the independence of this State, and to that end requiring all public officers and electors within this State, to take the teste oath therein contained." And the act, entitled, "An act to prevent delay by writs of replevin, in cases of distress for taxes, assessments or fines." And the act, entitled,

Certain acts herein enumerated, passed by the Legislature of this State declared to be repealed.

entitled, "An act for giving relief against the operation of the statute of the 21st of James the 1st, commonly called the statute of limitations, and of an act of this State while it was a colony, entitled, "An act for giving relief on promissory notes." And the act, entitled, "An act to preserve the freedom and independence of this State, and for other purposes therein mentioned." And the act, entitled, "An act for the more easy assessment of taxes, for prolonging the terms of the Court of General Sessions of the Peace, altering the modes of punishment in certain cases of petit larceny in the city and county of New-York, and for the confinement of vagrants and common prostitutes to hard labour." And the act, entitled, "An act for the punishment of persons who shall in the city and county of New-York, by false pretences obtain any monies, goods, wares or merchandize, from any person with intent to cheat or defraud such person." And the act, entitled, "An act granting a bounty on hemp to be raised within this State, and imposing an additional duty on sundry articles of merchandize, and for other purposes therein mentioned." And the act, entitled, "An act to compel collectors and constables to give security." And the eighth section of the act, entitled, "An act concerning counsellors, attornies, solicitors, advocates and proctors of the several courts in this State," so far as the same relates to the penalty or forfeiture of ten pounds on every attorney neglecting or omitting to file his warrant of attorney, according the directions of the said act, shall be and hereby are repealed.

Certain acts herein enumerated passed by the Legislature of the late colony, declared to be repealed.

III. *And be it further enacted by the authority aforesaid,* That the several acts or laws herein after mentioned, which were made in this State while the same was the province or colony of New-York; that is to say, an act, entitled, "An act for enabling each respective town within this province to regulate their fences and highways, and make prudential orders for their peace and orderly improvements." And one other act, entitled, "An act for defraying the public and necessary charge throughout this province, and for maintaining the poor and preventing vagabonds." And one other act, entitled, "An act for regulating the fences in the county of Ulster." And one other act, entitled, "An act repealing an act of General-Assembly of this province, entitled, an act for defraying the public and necessary charges throughout this province, for maintaining the poor and preventing vagabonds, except so much thereof as relates to vagabonds, and for the appointing more effectual means for the defraying the public and necessary charge in each city and county, and for maintaining the poor." And one other act entitled, "An act to oblige the owners and possessors of unimproved lands in the county of Albany, Westchester, Richmond and Orange, to pay the proportion of their quit rents and taxes, raised for the support of the government and other county charges." And one other act, entitled, "An act for the better explaining and more effectual putting in execution, an act of General-Assembly made in the third year of the reign of their late Majesties, King William and Queen Mary, entitled, "An act for defraying of the public and necessary charge throughout this province, and for maintaining the poor and preventing vagabonds." And one other act, entitled, "An act for defraying the common and necessary charge in the manor of Rensselaerwick, in the county of Albany." And one other act, entitled, "An act for the better raising, levying and defraying the necessary charge in the manor of Rensselaerwick in the county of Albany." And one other act, entitled, "An act to enable the Justices of the Peace to chuse assessors and collectors in case of death." And one other act, entitled, "An act to oblige the inhabitants of each particular ward within the city of New-York to make good their respective quotas of all public taxes." And one other act, entitled, "An act to enable the Mayor, Aldermen and Commonalty of the city of Albany, to defray the public and necessary charges of the said city." And one other act, entitled, "An act to oblige the collectors and treasurer of Richmond county, effectually to collect and pay the annual rate of the said county." And one other act, entitled, "An act for defraying the common and necessary charge of the Manor of Cortlandt, in the county of West-Chester." And one other act entitled "An act for the punctual payment of the county rates in Suffolk county, and for the more effectual recovering the arrearages thereof." And one other act entitled "An act for recovering arrearages of taxes and rates in the city and county of

of Albany." And one other act, entitled, "An act for regulating fences for the several cities and counties within this colony of New-York." And one other act, entitled, "An act for the better regulating the taxation of estates in Queen's-County, and for repealing an act, entitled, an act for the more equal taxation of estates in Queen's-County, passed in the twenty-seventh year of his present Majesty's reign," together with the act thereby repealed." And one other act, entitled, "An act to regulate the public pounds in the city and county of New-York." And one other act entitled, "An act to enable the supervisors of the several counties of this colony therein mentioned, to take security of their respective county Treasurer, before he enters upon the execution of his office." And one other act, entitled, "An act for the more equal taxation of estates, and providing for deficiencies in the taxes of the county of Westchester." And one other act, entitled, "An act to confine rams at certain seasons of the year, in the counties of Ulster, Orange and Dutchess." And all laws heretofore made in this State while the same was the colony or province of New-York, for erecting or dividing any part or parts of this State, into towns, parishes, precincts or districts, or altering the bounds of any of them; and all laws heretofore made in this State, while the same was the colony or province of New-York, enabling the towns, manors, precincts or districts of this State, or any of them, to chuse supervisors, assessors, collectors and constables, and other town officers, or any or either of them, and relating to the meetings, or to the times or places of meeting, of the supervisors or assessors, or either of them. And all laws heretofore made in this State, while the same was the province or colony of New-York, relating to swine; and every clause, matter and thing in the same acts and laws herein before mentioned, and in every of them contained, shall be, and hereby are repealed and made void, from and after the first day of April which will be in the year of our Lord one thousand seven hundred and eighty-nine.

All laws passed by the Legislature of the late colony, enabling towns, manors, &c. to chuse supervisors, assessors, collectors, &c. and laws relating to swine, declared to be repealed.

IV. *And be it further enacted by the authority aforesaid,* That the several acts and clauses of acts of the Legislature of this State, herein after mentioned, that is to say, An act entitled, "An act for increasing the number of assessors throughout this State." And the act, entitled, "An act to divide the district of the manor of Rensselaerwyck, in the county of Albany, into two districts." And the act, entitled, "An act to annex the lands belonging to the corporation of the Reformed Protestant Dutch Church of Schenectady, and the settlement called Cory's-Brook, now in the districts of Half-Moon and the united districts of Schoharie and Duaneburgh, to the district of Schenectady." And the act, entitled, "An act to increase the number of collectors in the counties of Albany, Ulster and Orange." And the act, entitled, "An act to ascertain the division line between the district of Half-Moon, and the west district of Rensselaerwyck, and for dividing Mohawk district, in the county of Tryon, into two districts." And the act, entitled, "An act to divide the district of Claverack in the county of Albany, into two districts." And the act, entitled, "An act declaring the East Ward of the manor of Cortlandt, and the district of Salem in the county of Westchester, to be two townships, in manner therein designated." And the act, entitled, "An act to divide the east district of the manor of Rensselaerwyck in the county of Albany." And the act, entitled, "An act to divide the township of Hempstead in Queen's-County." And the act, entitled, "An act to divide Charlotte and Rhynbeck precincts, into three precincts." And the act, entitled, "An act for dividing the county of Washington into townships." And the act, entitled, "An act for dividing the district of the manor of Livingston, in Columbia county, and for annexing the manor of Fox-Hall to the town of Kingston in Ulster county." And the act, entitled, "An act to erect the settlement of Woodstock, and Great and Little Shandaken, in Ulster-County, into a seperate township." And the twenty-fourth section of the act, entitled, "An act for the relief of persons who paid money into the Treasury of this State, in consequence of a resolution of the Committee of Safety of the first day of March, one thousand seven hundred and seventy-seven, and for other purposes therein mentioned, shall be, and hereby are repealed, from and after the first day of April, which will be in the year of our Lord one thousand seven hundred and eighty-nine.

Certain acts herein recited, passed by the Legislature of this State, declared to be repealed.

C H A P. LXXIV.

An ACT for raising a further Sum of Money, for compleating the Court-House and Gaol in the County of Columbia. Passed the 14th of March 1788.

Preamble.

WHEREAS the trustees for building a court-house and gaol in the county of Columbia, and the supervisors of the said county, have by their petition requested the Legislature to enable them by law, to raise a further sum of money to compleat the court-house and gaol, erected in the said county, agreeably to an act passed for that purpose on the fourth day of April, one thousand seven hundred and eighty six : *Therefore,*

Supervisors of Columbia County to direct 1200l. to be raised to compleat the Court house, &c.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the supervisors of the county of Columbia for the time being, shall be, and they are hereby authorized and required to direct to be raised and levied on the freeholders and inhabitants of the said county the sum of one thousand two hundred pounds, with an additional sum of nine pence in the pound for collecting the same ; which said sums shall be raised, levied and collected in like manner as the other necessary and contingent charges of the said county, are levied and collected.

Supervisors where and when to meet for such purpose.

II. And be it further enacted by the authority aforesaid, That the said supervisors shall meet for the purpose aforesaid, at the dwelling-house of Gabriel Effelstyn in Claverack, in the said county on the last Tuesday in May next ; and it is hereby made the duty of the clerk of the supervisors of the said county to notify the respective supervisors of such meeting.

Said sum to be collected in two payments.

III. And be it further enacted by the authority aforesaid, That the one moiety of the monies directed to be raised by virtue of this act, shall be collected and paid into the Treasury of the said county of Columbia, on or before the first Tuesday of November next, and the other moiety thereof on or before the first Tuesday of November which will be in the year of our Lord one thousand seven hundred and eighty-nine ; except the allowance to the collectors, which they are hereby severally authorized to retain in their hands ; and the Treasurer of the said county is hereby required and directed to pay to the trustees appointed by the act herein before recited, on the order of the supervisors of the said county, so much of the said monies as they shall deem requisite for compleating the court-house and gaol aforesaid, and for repaying to the said trustees, such sum or sums as shall appear to be due to them for building the said court house and gaol, and for materials furnished for the same ; and the residue if any there be, shall be retained by the said Treasurer, to be disposed of and applied for the general benefit of the county, in such manner as the supervisors of the said county shall direct.

County treasurer to pay the monies to the order of the trustees appointed for building said court house & gaol.

Treasurer, Supervisors, &c, for neglect of duty to forfeit 100l.

IV. And be it further enacted by the authority aforesaid, That if the said Treasurer, supervisors, assessors or collectors, shall neglect or refuse to perform the duty required of him or them by this act, the person so neglecting or refusing shall forfeit the sum of one hundred pounds, to be recovered in any Court of Record within this State, at the suit and in the name of the said trustees, or the survivors or survivor of such trustees ; which said sum when so recovered, shall be disposed of and applied by the said supervisors in like manner as the monies directed to be raised by this act, are to be applied.

County treasurer's allowance.

V. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Treasurer of the said county of Columbia, to retain in his own hands the sum of three pence in the pound for his trouble in receiving and paying out the monies directed to be raised by this act.

C H A P. LXXV.

An ACT to enable David Richard Floyd to add the name of Jones to his Surname.
Passed the 14th day of March 1788.

WHEREAS David Richard Floyd by his petition to the Legislature has prayed, ^{Preamble.}
that the surname of Jones may be added to his present name; therefore,

BE it enacted by the People of the State of New-York, represented in Senate and ^{Surname of Jones to be added to the name of David Richard Floyd.}
Assembly, and it is hereby enacted by the authority of the same, That the surname of Jones be and the same is hereby added to the name of David Richard Floyd, and that at all times hereafter he shall and may take upon himself the name of David Richard Floyd Jones, and by the same name shall be known and called in all cases whatsoever.

C H A P. LXXVI.

An ACT to prolong the collection of the Tax therein mentioned. Passed the 15th of March 1788.

BE it enacted by the People of the State of New-York, represented in Senate and ^{Suits against collectors for neglect to collect the tax to be raised by a law herein recited, stayed till a certain day.}
Assembly, and it is hereby enacted by the authority of the same, That all suits and proceedings against any collector for neglect of duty in collecting and paying the tax to be raised and levied by virtue of an act, entitled, "An act for raising monies by tax," passed on the eleventh day of April one thousand seven hundred and eighty-seven, shall be and hereby are suspended until the last Tuesday in May next; and such of the collectors respectively as shall on or before the said last Tuesday of May well and faithfully perform and execute the duties which according to the true intent and meaning of the said act they ought to have done and performed, on or before the first day of March shall be and hereby are fully and effectually indemnified for any and every such neglect or omission. ^{Collectors performing their duty before such day indemnified.} Provided always, That the collectors respectively who have been prosecuted by virtue of the said act, shall be subject to the payment of the costs of suit heretofore accrued against each of them respectively.

II. And be it further enacted by the authority aforesaid, That the said several collectors be, and they hereby are authorised and empowered to levy and collect the said tax in like manner as is directed in and by the said act, notwithstanding the time in which the same ought to have been levied and collected is expired; and the Treasurers of the several counties respectively, shall pay the said taxes, so to be collected and paid into their hands, into the treasury of this State within one month thereafter, any thing in the said act to the contrary thereof in any wise notwithstanding. ^{Collectors empowered to collect such tax, notwithstanding the time is expired.}

Proviso:

C H A P. LXXVII.

An ACT for the more effectual collection of the Arrears of Taxes, heretofore made receivable in Public Securities. Passed the 15th of March 1788.

WHEREAS the arrears of taxes directed to be collected by the act, entitled, "An act to compel the payment of the arrears of taxes, for enforcing the payment of fines and amerciaments, obliging Sheriffs to give security for the due execution of their offices, and for other purposes." Passed the twenty-sixth day of November, one thousand seven hundred and eighty-four, and by the act entitled, "An act for the more effectual collection of the arrears of taxes," passed the thirty-first day of March, ^{Preamble.}
one

one thousand seven hundred and eighty-six, have not been fully collected: *And whereas* the time limited in and by the said last recited act for collecting the said arrears did expire on the first day of January, one thousand seven hundred and eighty-seven; in order therefore, that the remainder of the said arrears may be fully collected:

Collector to whom any tax-list was delivered for collecting arrears of taxes, to deliver such tax list to the county Treasurer, by a certain day, and the names of the persons who have paid such arrears.

And also the names of the persons from whom arrears are still due.

And supervisors of the counties, when and where to meet; and how to direct such arrears to be made good.

Collectors, when to pay said arrears to the county treasurers.

County treasurers, when to pay the same to State treasurer.

What kind of certificates may be received by collectors for such arrears.

But no interest to be computed on such certificates; and on refusal to pay arrears to levy the same.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That every person who was a collector in any town within this State, and to whom any tax list was delivered, for the purpose of collecting the said arrears in pursuance of the said acts, or either of them, is hereby strictly enjoined and required, on or before the first Monday in June next ensuing the passing of this act, to deliver the tax-list so heretofore unto him delivered unto the Treasurer of the county in which he was a collector, together with an account of the persons names by whom such arrears of taxes have been paid, the sum paid by each, distinguishing the payments made in certificates or public securities from those made in gold or silver, or in bills of credit emitted in pursuance of the act entitled, "An act for emitting the sum of *two hundred thousand pounds*, in bills of credit, for the purposes therein mentioned." And also an account containing the names of the persons from whom such arrears of taxes are still due and unpaid, specifying the sum due from each; all which accounts shall be given on the oath of and subscribed by the person delivering, or causing the same to be delivered.

II. *And be it further enacted by the authority aforesaid,* That the supervisors of the respective counties, where any such arrears are due, shall meet together in their respective counties, on the first Tuesday of September next, and then or as soon after as conveniently may be, examine the books and accounts of the county-treasurer, and the accounts of the respective collectors, so to be delivered as aforesaid: And where they find any sum or sums uncollected, and the persons or estates charged with the same are sufficient to pay the same, the said supervisors shall issue or cause to be issued a warrant to the collector for the time being, of the place where such arrears are due, for the collection thereof: And where any such arrears have happened in any place, by insolvency of the person taxed, or for want of effects whereon to levy, such taxes, or by the insolvency or misconduct of any collector or collectors, the supervisors of the county shall cause all such arrears to be raised, levied and collected, in such place where such arrears are due, in the same manner, as the proportion of such place, of the necessary and contingent charges of such county are raised, levied and collected: And where any such arrears in any county have happened from any other cause except taxes directed to be levied in wheat or other grain, the supervisors of such county shall cause such arrears to be raised in the same county, in the same manner as the necessary and contingent charges of the same county are to be raised, levied and collected. *And further,* That the several and respective collectors shall pay the said arrears by them to be collected as aforesaid, to the respective county Treasurers on or before the first day of January next, deducting thereout *one shilling* in the pound for their fees. And that the respective county Treasurers shall pay the same to the Treasurer of this State, on or before the first day of February next, deducting thereout *three pence* in the pound for their fees.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the collectors to receive in payment of such arrears, any of the certificates specified in the fifth section of the act entitled "An act for the speedy sale of the confiscated and forfeited estates within this State, and for other purposes therein mentioned," passed the twelfth day of May, in the year one thousand seven hundred and eighty-four, at the rate in the same section mentioned, or any certificates issued or to be issued by the Treasurer of this State; but no interest which may have accrued on any such certificates, shall be computed or allowed on any such certificate or certificates, to be paid in discharge of such arrears: And if any person shall neglect or refuse to pay such arrears in such certificates as aforesaid, then it shall be lawful for the collector to whom the same ought to have been paid by virtue of this act, to levy the amount of such arrears, by distress and sale of the goods and chattels of such delinquent; and upon such sale such collector shall receive, only gold and silver, or copper money, or bills of credit emitted

emitted in pursuance of the act entitled "An act for emitting the sum of *two hundred thousand pounds* in bills of credit, for the purposes therein mentioned," or the bills of credit to be emitted as a substitute for the same. And every collector shall give the county Treasurer, a particular account, upon oath, of all such of the said arrears as shall be so levied or collected in money, and shall pay the same to the county Treasurer in money. And every county Treasurer shall give an account, upon oath, to the Treasurer of this State, of all such parts of the said arrears as shall be paid to him in money, and shall pay the same to the treasurer of this State in money.

Collector to give an account to county Treasurer, of all arrears so paid in money, and to pay the same in money himself.

County treasurer to do the same to State treasurer.

IV. *And be it further enacted by the authority aforesaid,* That if any former collector, in whose custody or power any such former tax-list shall be, shall refuse or neglect to deliver the same as aforesaid, it shall be lawful for any Justice of the peace, upon proof thereof, to commit such collector to gaol, there to remain until he shall deliver up such tax-list, with such account as aforesaid.

Punishment on collector for refusing to deliver such tax-list as aforesaid.

V. *And be it further enacted by the authority aforesaid,* That if any supervisor, county-treasurer, assessor or collector, shall neglect or refuse to perform the duty required of him by virtue or in consequence of this act, he shall forfeit the sum of *fifty pounds* to the people of this State, to be recovered by action of debt, or by information in any court of record. And the Attorney-General of this State, is hereby authorised and required to prosecute for the said penalties, and to pay the same, when recovered, into the Treasury of this State, for the use of the people thereof.

Penalty on supervisors, county treasurers, &c. for neglect, to perform the duties required of them by this act.

VI. *And be it further enacted by the authority aforesaid,* That where suits have been commenced by the collectors, for the recovery of any of the said arrears, it shall and may be lawful for the several persons against whom such suits shall have been commenced, and where the sums recovered have not been paid, to pay and satisfy in such certificates aforesaid, the amount of such judgments (except the costs) obtained, or hereafter to be obtained, in such suits, any thing in any former act to the contrary notwithstanding.

Where suits have been already commenced for such arrears, and the monies not paid, the judgments may be satisfied in certificates.

Provided always, That nothing in this act contained shall be construed to authorise or empower any collector or other person, to receive in payment of any such arrears, any bills of credit emitted by the Congress of the United Colonies or United States, or by the Provincial Congress, or the Convention of this State, or by the Legislature of the late Colony of New-York.

Proviso.

C H A P. LXXVIII.

An ACT for the Payment of the Monies still due for compleating the Court-House and Gaol in the County of Dutchess. Passed the 15th of March, 1788.

WHEREAS it hath been represented to the Legislature, that there are considerable arrears in the taxes directed to be raised by the several acts for building and compleating the court-house and gaol in the county of Dutchess, and that by reason thereof a considerable sum is still owing to Peter Tappen, one of the superintendants for building and compleating the said court-house and gaol: *Therefore,*

Preamble.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the supervisors of the said county, shall, and they are hereby required at their annual meeting, to audit the accounts of the said Peter Tappen, relative to the building and compleating the said court-house and gaol, and ascertain and settle the sum which was due to him on the first day of January, in the year one thousand seven hundred and eighty-seven, and the sum so to be ascertained and settled, as due to the said Peter Tappen, shall be considered as a principal sum, bearing an interest of *seven per cent*, per annum, from the said first day of January last mentioned, until paid: That all monies hereafter to be paid into the Treasury of the said county, as monies levied by virtue of either of the said acts, shall be deemed as monies, intended for the contingent expences of the said

Supervisors of Dutchess county to audit accounts of P. Tappen, relative to the building of the gaol, and ascertain the sums due to him.

Which sum shall be considered and paid as part of the contingent charges of the county.

Supervisors, at their annual meetings, to direct the said sum to be raised, with the other monies for the contingent expences.

And the county Treasurer may pay the same from time to time, as monies shall come into his hands.

Recital.

County Treasurer to compel the collectors to collect said taxes.

county : That the said principal sum and the interest thereof, shall be deemed as part of and shall accordingly be paid as the contingent expences of the said county are paid ; that the supervisors of the said county, shall from time to time thereafter, at their annual meetings, cause and direct such sum and sums, as may be necessary for the payment of the said principal sum, and the interest thereof to be raised and levied, together with, and in like manner as the contingent charges, and as deficiencies in the taxes for such contingent charges are assessed, levied and raised ; and the Treasurer of the said county, shall out of the monies which shall from time to time, after the passing of this act, come to his hands, as monies raised for the contingent charges of the said county, make payments to the said Peter Tappen, in discharge of the said principal and interest, until the whole shall be paid and satisfied in preference to any other payments, except payments to the overseers of the poor.

And for the more effectual collection of the arrears of the taxes heretofore assessed, for building and compleating the said court-house and gaol,

II. *Be it further enacted by the authority aforesaid,* That the Treasurer of the said county for the time being, shall be vested with the like authorities, for compelling the several collectors to collect the said taxes, and for compelling them to pay into the treasury of the said county, the sums by them respectively received, or to be received as and for the said taxes, as he is vested with, by the act entitled, "An act for raising monies by tax," passed the eleventh day of April, one thousand seven hundred and eighty-seven, with respect to the taxes to be raised by virtue of the said act last mentioned.

C H A P. LXXIX.

An ACT for the better extinguishing Fires in the City of Albany. Passed the 15th of March 1788.

Mayor, Aldermen and Commonalty of Albany to appoint 60 firemen to have the care & management of the engines.

Who are to be ready at all times to work the same.

Said firemen exempted from serving as jurors, and from militia duty.

And their names to be registered with the clerk of the peace of the said city.

Mayor, Aldermen, &c. may remove or displace a-

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the city of Albany, in Common Council convened, or the major part of them, to nominate and appoint a sufficient number of able, discreet and sober men (willing to accept) not exceeding sixty in number, of the inhabitants, being freeholders or freemen of the said city, to have the care, management, working and using the fire-engines, and the other tools and instruments, now provided, or hereafter to be provided, for extinguishing of fires within the said city ; which persons so to be nominated and appointed as aforesaid, shall be called the firemen of the city of Albany ; who are hereby required to be ready at all times, as well by night as by day, to manage, work, and use the said fire-engines, and other the tools and instruments aforesaid, provided and to be provided for extinguishing fires in the same city.

And in order that the firemen so to be nominated and appointed as aforesaid, may be diligent and vigilant in the execution of their duty :

II. *Be it further enacted by the authority aforesaid,* That each of the persons so to be nominated and appointed a fireman, as aforesaid, shall, from time to time, during his continuance in that office, and no longer, be and he hereby is declared to be, exempted and privileged from serving in the office of commissioner or overseer of the highways, or constable, and from being impannelled upon any jury or inquest, and from militia duty, except in cases of invasion or other imminent danger ; and that for this purpose the name of each fireman to be nominated and appointed by virtue of this act, shall be registered and entered with the clerk of the peace of the said city, and his certificate shall be sufficient evidence in all courts and cases of such privilege and exemption. *And further,* That it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the said city, in Common Council convened, or the major part

part of them, to remove and displace all or any of the firemen now appointed, or to be nominated and appointed by virtue of this act, when and as often as they shall think fit; and others in the room or places of such as they shall so remove or displace, to nominate and appoint, and so from time to time, as they the said Mayor, Aldermen and Commonalty of the said city, in Common Council convened, or the major part of them, for the time being, shall think proper.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the Mayor, Aldermen and Comonalty of the said city, in Common Council convened, or the major part of them, to make, establish and ordain such rules, orders and ordinances and regulations, for the government, duty and behaviour of the persons to be by them from time to time nominated and appointed firemen, by virtue of this act, in the working, managing and frequent exercising, trying and using the same fire-engines, tools and other instruments; and to impose and establish such reasonable fines, penalties and forfeitures, upon them or any of them, for default or neglect of the duties and services thereby to be enjoined or required from them, as the Mayor, Aldermen and Commonalty of the same city, in Common Council convened, or the major part of them, shall from time to time think proper.

IV. *And be it further enacted by the authority aforesaid,* That upon the breaking out of any fire within the said city, the Sheriff, deputy Sheriffs, constables and marshals, then being in the said city, upon due notice thereof, shall immediately repair to the place where such fire shall happen, with their staves and other badges of authority, and be aiding and assisting, as well in the extinguishing of the said fires, and causing the persons attending the same to work, as in preventing any goods or household furniture from being stolen at such fires; and the officers aforesaid shall also give their utmost assistance to the inhabitants in removing and securing their said goods and furniture; and in the execution of the duties required from them by this act, shall in all respects be obedient to the orders and directions of the Mayor, Recorder and Aldermen of the said city, or such of them as shall from time to time be present at such fires.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the Mayor, Aldermen and Commonalty of the said city, in Common Council convened, if they shall deem it necessary and proper, by a bye-law or bye-laws, ordinance or ordinances by them for that purpose to be made and ordained, to direct and require the inhabitants or owners of houses and other buildings in the said city to furnish and provide themselves with such and so many fire-buckets, to be ready in their respective houses and other buildings, for the purposes of extinguishing fires, which may happen in the said city; and to impose and establish such reasonable fines, penalties and forfeitures, for every neglect, default or disobedience thereof, as they the said Mayor, Aldermen and Commonalty of the said city, in Common Council convened, shall think proper.

CHAP. LXXX.

An ACT for the better extinguishing Fires in the Town of Brooklyn, in King's-County. Passed the 15th of March 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the freeholders and inhabitants of the town of Brooklyn, in King's-County, residing near the ferry, within a line to begin at the East-River, opposite to, and to be drawn up the road that leads from the still-house, late the property of Philip Livingston, deceased, and including the same still-house, and the other buildings on the south side of the same road, to and across the road leading from Bedford to the ferry, south of the house of Matthew Gleaves, and from thence north-easterly, including all the houses on the east side of the road last mentioned, and east of the powder magazine

And at their said meetings also to displace any of them and appoint others.

Who shall be ready at all times to work and manage the same.

And be subject to such regulations as the said inhabitants shall make.

Such firemen exempted from serving as jurors, and from militia duty.

And their names to be registered.

Recital.

Inhabitants may direct monies to be raised for the repairs of engines, &c.

To be paid to the town clerk for the purposes aforesaid.

gazine of Comfort and Joshua Sands, to the East-River aforesaid, and from thence down the East-River, to the place of beginning, at the annual town-meeting of the freeholders and inhabitants of the same town, on the first Tuesday in April in every year, to nominate and appoint, eight able and sober men, residing within the limits aforesaid, to have the custody, care and management of the fire engine or engines, and the other tools and instruments, now provided, or hereafter to be provided, for extinguishing fires within the limits aforesaid; and all or any of the persons so by them to be nominated and appointed, from time to time, at any annual or other town-meeting, to remove or displace, and any other person or persons, in his or their place and stead to nominate and appoint; and that the persons so to be nominated and appointed, shall be called the fire-men of Brooklyn, and shall be ready at all times, as well by night, as by day, to manage, work, and exercise the same fire-engine, or engines, and the other tools and instruments aforesaid, now provided, and to be provided, for extinguishing fires within the limits aforesaid; and shall be subject to such rules, orders and regulations in their conduct, duty and behaviour, as the freeholders and inhabitants of the same town, residing within the limits aforesaid, in town-meeting convened, shall from time to time make and establish, for the better government of the same firemen: And that such rules, orders and regulations, so to be made as aforesaid, shall also be entered in the town-book, to be kept by the clerk of the same town.

II. *And be it further enacted by the authority aforesaid,* That every person so to be nominated and appointed a fireman as aforesaid, shall be and hereby is declared to be, during his continuance in that office, and no longer, exempted and privileged from serving in the office of overseer of the highways or constable, and from being impanelled upon any jury or inquest, and of and from militia duty, except in cases of invasion or other imminent danger; and to that end, the name of each person, to be nominated and appointed a fireman by virtue of this act, shall be registered and entered in the town-book, to be kept by the clerk of the same town as aforesaid, and his certificate of such nomination and appointment, shall be sufficient evidence, in all courts and cases, of such privilege and exemption.

And whereas the fire engine or engines, now provided or hereafter to be provided within the limits aforesaid, will want repairs, and it may be necessary to provide other instruments for the extinguishing fires: *Therefore,*

III. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for the freeholders and inhabitants of the said town of Brooklyn residing within the limits aforesaid, at any town-meeting, to direct such sum or sums of money as they shall deem necessary and proper for the purposes aforesaid, to be raised, levied and collected, at the same time, and in the same manner as the monies for the maintenance and support of the poor, within the same town are by law directed to be raised, levied and collected, and to be paid into the hands of the town-clerk of the same town, to be by him paid and applied for the purposes aforesaid, at such time and times, and in such manner as the major part of the firemen aforesaid, shall from time to time direct and appoint.

C H A P. LXXXI.

An ACT to prevent the storing of Gun-Powder within certain parts of the City of New-York. Passed the 15th of March 1788.

Preamble.

No person to keep more than twenty eight pounds of powder in any one house, store, &c.

WHEREAS the practice of storing gun-powder within certain parts of the city of New-York, is dangerous to the safety of the said city; *Therefore,*
BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall not be lawful for any person or persons, to have or keep any quantity of gun-powder exceeding twenty-eight pounds weight, in any one place, house, store or out-house, less than one

one mile to the northward of the City-Hall of the said city, except in the public magazine at the fresh-water, which said quantity of twenty-eight pounds, shall be separated in four stone jugs or tin cannisters, each of which shall not contain more than seven pounds; and if any person or persons shall keep any greater quantity than twenty-eight pounds, in any one place, house, store or out-house, or if the same gun-powder so permitted to be kept as aforesaid, shall not be separated in the manner herein above directed, he, she or they shall forfeit all such gun-powder so kept, contrary to the true intent and meaning of this act, or so permitted to be kept, and which shall not be separated as aforesaid; and shall also forfeit the sum of *fifty pounds* for every hundred weight of powder, and in that proportion for a greater or less quantity, to be recovered with costs of suit, in any court having cognizance thereof, by any person or persons who will sue for the same. *Provided always*, That all actions and suits to be commenced, sued or prosecuted, against any person or persons, for any thing done contrary to this act, shall be commenced, sued or prosecuted within two calendar months next after the offence committed and not at any time thereafter.

(with in one mile of the City-Hall) & that to be divided into four parcels.

On Penalty of forfeiting the same and sol. for every 100lb.

And to avoid dangers from gun-powder laden on board of any ship or other vessel, arriving from sea:

II. *Be it further enacted by the authority aforesaid*, That the commander or owner or owners of every ship or other vessel arriving from sea, and having gun-powder on board, shall within twenty-four hours after her arrival in the harbour, and before such ship or other vessel be hauled along side of any wharf, pier or key within the said city, land the said gun-powder, by means of a boat or boats, or other small craft at any place on the East-River, east of the wharf now building by Thomas Buchanan, or at any place on the North-River, to the northward of the air-furnace, which may be most contiguous to any of the magazines, and shall cause the same to be stored in one of the magazines now built, or hereafter to be built for that purpose, on pain of forfeiting all such gun-powder to any person or persons who will sue and prosecute for the same to effect, in manner aforesaid.

Commanders of vessels how to land and store gun-powder.

And to prevent any evil consequences which may arise from the carriage of gun-powder,

III. *Be it further enacted by the authority aforesaid*, That all gun-powder which shall be carried through the streets of the said city, by carts, carriages, or by hand, or otherwise, shall be in tight casks, well headed and hooped, and shall be put into bags or leather cases, and entirely covered therewith, so that no powder may be spilled or scattered in the passage thereof, on pain of forfeiting all such gun-powder as shall be conveyed through any of the streets aforesaid, in any other manner than is hereby directed; and it shall and may be lawful for any person or persons, to seize the same to his or their own use and benefit, and to convey the same to one of the magazines aforesaid, and thereupon to prosecute the person or persons offending against this act before the Mayor or Recorder and any two Aldermen of the said city; and such gun-powder shall upon conviction be condemned to the use of the person or persons seizing the same.

Gun-powder how to be transported thro' the streets.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Mayor or Recorder, or any two Aldermen of the said city, upon application made by any inhabitant or inhabitants of the said city, and upon his or their making oath of reasonable cause of suspicion (of the sufficiency of which the said Mayor or Recorder, or Aldermen is and are to be the judge or judges) to issue his or their warrant or warrants, under his or their hand and seal, or hands and seals, for searching for such gun-powder, in the day time, in any building or place whatsoever, within the limits aforesaid, or in any ship or other vessel, within forty-eight hours after her arrival in the harbour, or at any time after such ship or other vessel shall and may have hauled along side any wharf, pier or key, within the limits aforesaid: And that upon any such search it shall be lawful for the persons finding any such gun-powder, immediately to seize, and at any time within twelve hours after such seizure, to convey the same to one of the magazines aforesaid; and the same gun-powder being so removed, to detain and keep, until it shall be determined by the Mayor or Recorder

Mayor, &c. on suspicion of gun-powder being concealed may issue a warrant to search for and seize the same.

der and any two Aldermen of the said city, whether the same is forfeited by virtue of this act: And the person or persons so detaining the same, shall not be subject or liable to any action or suit for the detention thereof.

Proviso.

This act not to extend to ships of war or packets,

Provided always, That nothing in this clause of this act contained, shall be construed to authorise any person having such warrant, to take advantage of the same, for serving any civil process of any kind whatsoever: *Provided also*, That nothing in this act contained shall extend to ships of war, or packets in the service of the United States or any of them, or of any foreign Prince or State; nor to authorise the searching for gun-powder on board of any such ship or vessel while laying in the stream, and upwards of one hundred yards from the wharf or shore.

V. *And be it further enacted by the authority aforesaid*, That if any gun-powder exceeding twenty-eight pounds shall be found in the custody of any person, during any fire or alarm of fire, in the said city, by any fireman of the said city, it shall be lawful for him to seize the same, without warrant from the Mayor, or Recorder or Aldermen, and to cause the same to be condemned, in manner aforesaid, to his own use; any thing in this act to the contrary notwithstanding.

C H A P. LXXXII.

An ACT to prevent the Destruction of Deer. Passed the 13th of March, 1788.

31. to be forfeited for every deer killed between certain days.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any person or persons shall kill or destroy any wild buck, doe or fawn, or any other sort of deer whatsoever, at any time in the months of January, February, March, April, May, June or July, every such person, shall, for every buck, doe or fawn, or other deer so killed or destroyed as aforesaid, contrary to the true intent and meaning of this act, forfeit and pay the sum of *three pounds*, to be recovered with costs of suit, in any court having cognizance thereof, by any person or persons who will sue and prosecute for the same; the one moiety of which forfeiture, when recovered, to be paid to the overseers of the poor of the town or place where the offence shall be committed, for the use of the poor thereof; and the other moiety to such person or persons as shall sue and prosecute for the same as aforesaid.

Persons selling venison between the times aforesaid to be considered as the killers.

II. *And be it further enacted by the authority aforesaid*, That every person in whose custody shall be found, or who shall expose to sale any green deer skin, fresh venison, or deers flesh, at any time in any of the months before mentioned, and shall be thereof convicted before any Justice of the Peace, by the oath of one credible witness, or by the confession of the party, shall, unless such party shall prove that some other person killed such buck, doe, fawn, or other deer, be deemed and adjudged guilty of the said offence.

Mode for convicting offenders.

And in order the more easily to convict offenders against this act,
III. *Be it further enacted by the authority aforesaid*, That it shall be lawful for any Justice of the Peace in any County of this State, and every such Justice is hereby required, upon demand made by any person, assigning a reasonable cause of suspicion, upon oath (of the sufficiency of which the said Justice is to judge) at any time in any of the months before mentioned, to issue his warrant under his hand and seal, to any constable of any town or place in the same county, for searching in the day time in any house, store, out-house, or other place whatsoever, where any green deer skin, fresh venison, or deer's flesh is suspected to be concealed: And in case any green deer skin, fresh venison or deer's flesh, shall upon such search be found, the person in whose custody the same shall be found, or who concealed the same, shall forfeit the sum of *three pounds*, to be recovered and applied in manner aforesaid.

No deer to be hunted or killed with blood-hounds under penalty of 31.

IV. *And be it further enacted by the authority aforesaid*, That if any person or persons shall at any time hunt, pursue or destroy any wild buck, doe, or fawn,

or

or other deer (except in the county of Suffolk) with any blood-hound or blood-hounds, beagle or beagles, every such person shall, for every such offence, forfeit and pay the sum of *three pounds*, to be recovered and applied as aforesaid. *Provided*, That nothing in this clause of this act contained, shall be construed to prevent any person or persons from making use of any blood-hounds or beagles, in the hunting, pursuing or destroying of wolves or other destructive wild animals.

V. *And be it further enacted by the authority aforesaid*, That all former acts and laws of this State concerning deer, shall be and hereby are repealed.

Exception.

All former laws about killing deer repealed.

C H A P. LXXXIII.

An ACT vesting the Estate of Sarah Ann Delaplaine in the Trustees therein named.
Passed the 15th of March, 1788.

WHEREAS Sarah Ann Delaplaine, by a certain indenture, bearing date the 12th day of March, in the year one thousand seven hundred and seventy-three, did grant, assign and convey, unto John Watts, William Axtell and James Jauncey, Esquires, a certain bond and mortgage, in the same indenture mentioned, and also all her share, interest and proportion, of the residuary estate of her father, Joshua Delaplaine, deceased, upon certain trusts in the said indenture mentioned; and whereas all the estates of the said John Watts, William Axtell, and James Jauncey have been forfeited to and are vested in the people of this State; and whereas the said Sarah Ann Delaplaine, by a certain other indenture, bearing date the second day of the 6th month, in the year one thousand seven hundred and eighty-five, hath granted and assigned her whole estate, real, personal and mixed, unto Joseph Delaplaine, Nicholas Delaplaine, and John Murray, junior, all of the city of New-York, merchants, upon certain trusts in the same last mentioned indenture comprised; and the said last mentioned trustees, have prayed the Legislature that the whole of the estate of the said Sarah Ann Delaplaine, may be vested in them, for the benefit of the said Sarah Ann Delaplaine, and upon the trusts contained in the said last mentioned indenture.

Preamble:

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the whole estate, real, personal and mixed, of the said Sarah Ann Delaplaine, shall be vested in the said Joseph Delaplaine, Nicholas Delaplaine, and John Murray, junior, as fully as they would have been, if the several matters and things conveyed to the said John Watts, William Axtell, and James Jauncey, by the said first mentioned indenture, had been duly granted, assigned and conveyed to them the said Joseph Delaplaine, Nicholas Delaplaine and John Murray, junior, previous to the attainder of the said John Watts, William Axtell, and James Jauncey, upon security being given to the satisfaction of the Chancellor, by the said Joseph Delaplaine, Nicholas Delaplaine, and John Murray, junior, in such sum as he shall appoint, for their performance of the trusts specified in the said last mentioned indenture. And further, That the said Joseph Delaplaine, Nicholas Delaplaine, and John Murray, junior, their heirs, executors and administrators, after such security being given as aforesaid, may maintain any action or actions in their own names or otherwise, as the case may require, for any lands, tenements or hereditaments, goods, chattels, effects, bonds, obligations, or other securities, for money, which were so as aforesaid, granted, conveyed or assigned, to the said John Watts, William Axtell and James Jauncey, by the said first recited indenture, and not by them legally sold or assigned, in whatsoever persons hands the same may now be; and shall and may recover the same in like manner as the said John Watts, William Axtell and James Jauncey would or might have done, if they had not been attainted as aforesaid.

Estate of Sarah Ann Delaplaine vested in Joseph Delaplaine, Nicholas Delaplaine & John Murray as trustees.

Said trustees after giving security for the faithful performance of their trust may maintain actions in their own names.

C H A P.

C H A P. LXXXIV.

An ACT for the Relief of Francis Upton. Passed the 15th of March, 1788.

Preamble.

WHEREAS Francis Upton claims to be one of the proprietors of a tract of land in the county of Montgomery, formerly granted to Clotworthy Upton, and hath petitioned that he may be allowed to discharge the quit rents due for the said land, and to commute for those to come upon such favorable terms as the Legislature may think proper. *And whereas* it appears that the said Francis Upton is actually resident upon, and employed in settling and improving the said land: *Therefore,*

Francis Upton permitted to pay quit rents due on a certain tract of land in public securities and also to commute for the same.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That it shall and may be lawful for the said Francis Upton, at any time before the first day of May, one thousand seven hundred and eighty-nine, to pay and discharge all quit rents reserved in or upon the original grant to the said Clotworthy Upton, and due at the time of such payment, and to commute for the future quit rents that would otherwise be payable for or upon the same, in like manner as the citizens of this State are by law entitled to pay and commute for the quit rents due or to arise, for or upon their lands, in any public securities issued out of the treasury of this State; any law to the contrary thereof in any wise notwithstanding. *And further,* That when such payment and commutation shall be made as aforesaid, the said lands so granted shall be forever discharged from the quit rents reserved in and by the original grant aforesaid. *Provided always,* That upon such payments so to be made by virtue of this act, no interest whatsoever shall be computed upon the sums specified in the public securities so to be paid as aforesaid, but the same shall be estimated and taken, at and for the principal sums therein expressed and no more.

And said lands when the quit rents are so paid and commuted, to be forever after free.

C H A P. LXXXV.

An ACT to punish Infractions of that Article of the Constitution of this State prohibiting Purchases of Lands from the Indians, without the Authority and Consent of the Legislature, and more effectually to provide against Intrusions on the unappropriated Lands of this State. Passed the 18th of March, 1788.

Preamble.

WHEREAS by the thirty-seventh section of the constitution of this State, reciting that it is of great importance to the safety of this State, that peace and amity with the Indians within the same be at all times supported and maintained; and that the frauds too often practised towards the said Indians, in contracts made for their lands, have in divers instances been productive of dangerous discontents and animosities; it is ordained that no purchases or contracts for the sale of lands, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which might thereafter be made with, or of the said Indians within the limits of this State, shall be binding on the said Indians or deemed valid, unless made under the authority and with the consent of the Legislature of this State. In order therefore more effectually to provide against infractions of the constitution in this respect;

Every person buying or selling lands to or from the Indians without the authority of the Legislature to forfeit one hundred pounds. &c. &c.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any person shall hereafter unless under the authority and with the consent of the Legislature of this State, in any manner or form, or on any terms whatsoever, purchase any lands within the limits of this State, or make contracts for the sale of lands within the limits of this State, with any Indian or Indians residing within the limits of this State, every person so purchasing or so making a contract, shall be deemed to have offended against the people of this State, and shall on conviction forfeit one hundred pounds to the people of this State, and shall be further punished by fine and imprisonment in the discretion of the court.

II. And

II. *And be it further enacted by the authority aforesaid,* That every person who shall hereafter give, convey, sell, demise or otherwise dispose of or offer to give, convey, sell, demise or otherwise dispose of any lands within the limits of this State, or any right, interest, part or share, of or in any lands within the limits of this State, or intrude or enter on, or take possession of, or settle on any lands within the limits of this State, pretending or claiming any right, title or interest, in such lands, by virtue, under colour, or in consequence of any purchase from, or contract for the sale of lands made with any such Indian or Indians as aforesaid, at any time since the fourteenth day of October, one thousand seven hundred and seventy five, and not under the authority and with the consent of the Legislature of this State, every such person shall be deemed to have offended against the people of this State, and shall on conviction, forfeit the sum of one hundred pounds to the people of this State, and be further punished by fine and imprisonment in the discretion of the court.

Persons intruding on lands or offering them for sale, &c. under any Indian title without such authority to forfeit 100l. &c.

III. *And be it further enacted by the authority aforesaid,* That if any persons, other than Indians, shall after the passing of this act, take possession of or intrude or settle on any of the waste or ungranted lands of this State, lying eastward of the lands ceded by this State to the Commonwealth of Massachusetts, and westward of the line or lines commonly called the Line of Property, agreed on between the Indians and the Superintendant of Indian affairs, in the year one thousand seven hundred and sixty-eight, every person so taking possession of, or intruding or settling on any such waste or ungranted lands, within the limits aforesaid, shall be deemed as holding such lands by a foreign title, against the right and sovereignty of the people of this State; and it shall and may be lawful for the person administering the government of this State for the time being, and it is hereby declared to be his duty to remove or cause to be removed from time to time, by such means and in such manner as he shall judge proper, all persons, other than Indians, who shall so take possession of or settle or intrude on any of the waste or ungranted lands of this State within the limits aforesaid, and to cause the buildings or other improvements of such intruders on such lands to be destroyed; and for that purpose, in his discretion, to order out any proportion of the militia from any part of this State, and such an occasion to be deemed an emergency, intended in the second section of the act entitled "An act to regulate the militia," passed the 4th day of April, 1786. And the detachments so from time to time to be ordered out, shall receive the same pay and rations, and be subject to the same rules and regulations, as is provided in the said section of the said act. And for defraying the expences of paying and subsisting the militia, so from time to time to be ordered out, and of the contingencies to arise in such services,

Every person except Indians taking possession of, or intruding on certain waste lands, to be deemed as holding under a foreign title against this State.

Governor authorized to remove such persons by the assistance of the militia or otherwise.

IV. *Be it further enacted by the authority aforesaid,* That it shall be lawful for the person administering the government of this State for the time being, from time to time, by warrant under his hand, to draw from the treasury of this State, such sum and sums of money as he shall deem necessary, not exceeding *two thousand pounds*; and the treasurer is hereby required, out of any monies he may have in the treasury, forthwith to answer every such warrant, any other appropriation of the monies in the treasury, except appropriations to private persons in discharge of contracts, notwithstanding. And every person to be appointed or intrusted, by the person administering the government, with the expenditure of any of the said monies, shall be responsible to the people of this State for the respective expenditures, and shall account with the auditor of this State accordingly.

Governor authorized to draw monies from the Treasury.

C H A P. LXXXVI.

An ACT for raising monies by Tax. Passed the 19th of March, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That there shall be raised and levied within this State, the sum of *twenty-four thousand pounds*; and thereof,

24,000l. to be raised by tax, and each county's quota thereof.

B b b

that

that the quota of the city and county of New-York, of the said sum, shall be *six thousand one hundred pounds*; the quota of the city and county of Albany shall be *two thousand nine hundred and fifty pounds*; the quota of the county of Columbia shall be *one thousand two hundred and fifty pounds*; the quota of the county of Dutchess shall be *two thousand five hundred and fifty pounds*; the quota of the county of Ulster shall be *one thousand seven hundred pounds*; the quota of the county of Orange shall be *one thousand two hundred pounds*; the quota of the county of Westchester shall be *one thousand seven hundred pounds*; the quota of the county of Suffolk shall be *two thousand pounds*; the quota of Queen's county shall be *nine hundred pounds*; the quota of the county of Richmond shall be *four hundred and fifty pounds*; the quota of the county of Montgomery shall be *eight hundred pounds*; and the quota of the county of Washington shall be *four hundred pounds*.

Supervisors of counties when to meet to order the raising their said quotas.

Collectors of New-York when to pay the monies to be by them collected to the treasurer.

Collectors of the other counties when to county treasurers.

County treasurers when to State treasurer.

II. *And be it further enacted by the authority aforesaid*, That the supervisors of the several counties, or the majority of them, shall respectively meet on the first Tuesday of September next, and cause the said respective quotas assigned to their several counties, to be raised, assessed, levied and collected in like manner as the contingent charges of such counties are usually raised, assessed, levied and collected. And that the respective collectors of the city and county of New-York shall pay the sums by them severally to be collected to the Treasurer of this State, on or before the first day of March next, deducting *eight pence* in the pound for collection. And the respective collectors of the several other cities and counties of this State, shall pay the sums by them severally to be collected, to the respective county treasurers, on or before the first day of February next, deducting *one shilling* in the pound for collection. And that the respective county treasurers shall pay the respective quotas of their counties, to the Treasurer of this State, on or before the said first day of March, which will be in the year of our Lord one thousand seven hundred and eighty-nine, deducting *three pence* in the pound for their fees.

Judges, &c. duties, powers, &c.

III. *And be it further enacted by the authority aforesaid*, That the several Judges, Justices of the Peace, County-Treasurers, Supervisors, Assessors and Collectors, shall respectively perform the like duties, exercise the like powers, and be subject to the same penalties for neglect or refusal to discharge their duty, as are directed and prescribed in and by the act, entitled, "An act for raising monies by tax," passed the twenty ninth day of April in the year of our Lord one thousand seven hundred and eighty-six: *Provided always*, That the assessors shall specify and rate the real and personal estate by them to be rated, in separate and distinct columns, in the assessment rolls, any thing in the said act to the contrary notwithstanding.

Assessors when to meet to make the assessments.

IV. *And be it further enacted by the authority aforesaid*, That the assessors of the several cities, towns, manors, precincts, districts and places, in the several counties and cities aforesaid, shall respectively meet on the first Tuesday of October next to make the assessment in pursuance of this act, and shall compleat such assessment within twenty days after such meeting; and that the tax-rolls shall be delivered to the respective collectors on or before the tenth day of November next.

Recital.

And whereas there are some arrears of taxes due from several of the counties of this State upon the said act, entitled, "An act for raising monies by tax," passed the said twenty-ninth day of April in the year one thousand seven hundred and eighty-six.

Arrears how to be made good.

Therefore,

V. *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Mayor, Recorder and Aldermen of the city of New-York, and the supervisors of each of the respective counties of this State, for the time being, or the major part of them respectively, and they are hereby respectively required, when they meet, to cause the tax imposed by this act to be levied, and at such other times as they shall respectively think proper, to examine and ascertain what sums remain due and unpaid of the said tax imposed by the said act, and where they find any sum or sums uncollected, and the persons or estates charged with the same, are within the county and sufficient to pay the same, they shall issue their warrants to the collectors for the time being of the respective towns and places where such sums remain unpaid, for the collection

lection thereof; and the respective collectors shall levy and collect and pay all such sums at the times, and in the same manner, and under the same penalties, as they are authorised and required to do, with respect to the taxes imposed by this act; and where it shall appear that any such arrears have happened, in any town or place by the insolvency of any person taxed, or the want of effects whereon to levy such tax, or by the insolvency, or misconduct of the collector, all such arrears shall be added to, and be levied, collected and paid with, the proportion of such town or place, of the tax imposed by this act. *And further*, That where any such arrears have happened in any city or county, from any other cause, such arrears shall be added to and be levied, collected and paid, with the quota of such city or county, of the tax imposed by this act.

VI. *And be it further enacted by the authority aforesaid*, That if the Mayor, Recorder or any Aldermen of the city of New-York, or any Justice, supervisor, county-treasurer or assessor, shall neglect or refuse, to perform any of the duties required of him by this act, every such person so neglecting or refusing to perform any such duty, shall forfeit to the people of this State the sum of *fifty pounds*, to be recovered in the manner directed in and by the eleventh section of the said act, entitled, "An act for raising monies by tax," passed the twenty-ninth day of April, one thousand seven hundred and eighty-six.

Mayor, &c. for neglect of duty to forfeit 50l.

C H A P. LXXXVII.

An ACT to Naturalize the Persons therein named. Passed the 20th of March 1788.

WHEREAS Henry Nash, George Lyon, Azarias Williams, Joseph Towers, Thomas Dodds, Henry Lot, George Orff, William Rutledge, Lot Merkel, Christian Baehr, Joseph Corre, James Stewart, William Austin, Coenraedt Beerigh, John Daniel Frazer, Marin Francis Durand, William Cheevers, Francis Durand, William Wood, Alexander Marth Wood, Patrick Smyth, John Connell, William Lawler, John Van Der Meulen, Bryan Charles Pritchard, John Blacklock, Francis Conihane, Martin O'Reily, Arnold Rombergh, Hendrick Teats, Matthew Cowper, Lucas Senf, Henrick Hofe, Johannes Helwigh, Adam Berker, August Mouet, James Cockburn, John George Bloomenberg, Henry Hoffman, James Bradford, Archibald Kirly, Dominique De Bartzch, John George Orff, John Zealman, James Palmer, George Suffern, Bernhardt Hudson, August Mark, Gottlieb Krach, Adam Bower, Andrew Mickell, Michael Gotthart Kurau, Valentine Wagenaer, Baltzer Strouch, Ruffel Foreman, Henry Fanshaw, Simon Nathan, Aaron Pimentel, John Young, Lyon Jonas, George Dilfaort, Michael Nesslar, Myers Regensburgh, William Wilmerding, C. L. Cammann, and William Alexander, have by their several petitions to the Legislature prayed to be naturalized: *Therefore*,

Persons herein named declared to be naturalized.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the above named persons shall be and they are hereby respectively naturalized; and shall from and after having taken and subscribed, in any Court of Record within this State, the oath of allegiance to this State, and abjured and renounced all allegiance and subjection, to all and every foreign King, Prince, Potentate and State, in all matters, Ecclesiastical as well as Civil, be deemed citizens of this State, to all intents, constructions and purposes whatsoever; and that the court in which any of the persons herein before mentioned, shall be admitted to take such oath, shall cause an entry thereof to be made in the minutes of the said court; and shall give a certificate to such persons respectively, purporting that such person hath been admitted to such oath, in the said court, in pursuance of this act; and such persons, upon taking such oath, shall respectively pay to the Judges of such court *six shillings*, and to the clerk thereof *three shillings*.

After having taken the oaths of allegiance, &c. to be citizens of this State.

Court to make an entry of the oath and give a certificate thereof.

Judges fees, &c.

II. *And be it further enacted by the authority aforesaid*, That no lands, tenements or hereditaments, in this State, heretofore purchased by any of the persons herein before

Lands heretofore purchased by said persons not to be cheat to the State.

fore named, shall escheat to the people of this State, by reason or on account of such person's then being an alien; but all such lands, tenements and hereditaments, shall vest in such purchaser, in the same manner as if such purchaser had been naturalized at the time of such purchase; any law to the contrary notwithstanding.

Proviso.

Provided always, That such of the persons above named and hereby naturalized, as shall not take the oath of allegiance and abjuration aforesaid, in manner herein before directed, within twelve calendar months, next after the passing of this act, shall have no manner of benefit by this act; any thing herein contained to the contrary notwithstanding.

C H A P. LXXXVIII.

An A C T to prevent breaking and defacing Mile-Stones and public Monuments.
Passed the 20th of March, 1788.

Preamble.

WHEREAS the erection of mile-stones, hands, pointers and other monuments, for the direction of travellers along the public roads, greatly contributes to the convenience of such travellers: *Therefore,*

Penalty for defacing monuments.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That if any person or persons shall remove or wilfully break, deface or in anywise damage any of the mile-stones, hands, pointers, or any other monument already erected or put up, or hereafter to be erected or put up within this State, for the direction of travellers, the person or persons so removing or wilfully breaking, defacing or in any wise damaging any of the said mile-stones, hands, pointers, or any other monument shall forfeit and pay the sum of *three pounds* for every mile-stone, hand, pointer, or other monument so removed, broken, defaced or otherwise damaged; to be recovered with costs of suit, in any court having cognizance thereof, by any person or persons who will sue and prosecute for the same; the one moiety of which forfeiture, when recovered, to be paid to the person or persons suing and prosecuting for the same to effect; and so much of the other moiety as may be necessary for that purpose, to be applied to repairing the damage done, and the residue, if any there be, to be paid to the overseers of the poor of the city or town where the offence shall be committed, for the use of the poor thereof. And if any person or persons convicted of any of the offences herein mentioned, shall refuse or neglect to pay such forfeiture, he she or they so convicted, shall be committed to the common gaol of the county, there to remain without bail or mainprize for the space of thirty days, unless such forfeiture shall be sooner paid.

Such penalty, how to be recovered and applied.

C H A P. LXXXIX.

An A C T to extend the Powers of the Commissioners of the Land-Office, to the Cases therein mentioned, and for other Purposes. Passed the 20th of March, 1788.

Preamble.

WHEREAS by the second proviso to the nineteenth section of the act entitled "An act for the speedy sale of the unappropriated lands within this State, and for other purposes therein mentioned," passed the fifth day of May, one thousand seven hundred and eighty-six, every person entitled to the benefit intended by the said section of the said act, was directed to make application therefor to the commissioners appointed by the said act, within six months after passing of the said act. *And whereas* so great a part of the said time was elapsed before the said act was printed, that many of the persons for whose benefit the said section was intended could not avail themselves thereof: *Therefore,*

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the commissioners appointed by the said act, to make grants of unappropriated or ungranted lands in manner directed by the nineteenth section of the said act; passed the fifth day of May, one thousand seven hundred and eighty-six. *Provided,* That application to the said commissioners for such grant, be made on or before the first day of January next ensuing the passing of this act.

Said time lengthened.

And whereas adverse claims are made by persons who have heretofore located unappropriated or ungranted lands, by virtue of the laws of this State, authorising locations of land, and others claiming the benefit of the third section of the act entitled "An act to prevent grants or locations of the lands therein mentioned," passed the 25th day of July, one thousand seven hundred and eighty-two, and of the proviso annexed to the said third section, and no mode is directed by the said act or any other act, for the conduct of the Surveyor-General, and of the said commissioners in such cases; for remedy whereof:

Reciting that there are many adverse claims to lands between locators, and persons claiming by virtue of possession.

II. *Be it further enacted by the authority aforesaid,* That where any unappropriated or ungranted lands have heretofore, or hereafter shall be located by any person or persons, if such lands were occupied and possessed, on or before the passing of the said act last mentioned, by the present occupant or possessor, or by any person who is the heir or legal representative of any original occupant or possessor, if such original occupant or possessor did not go off to or join the enemies of this State during the late war, then the lands so occupied and possessed shall not be granted to the person or persons having located the same; but if it shall appear that the lands so located were originally occupied by the person or persons so locating the same, or that the present occupant did not, on or before the twenty-fifth day of July, one thousand seven hundred and eighty-two, actually occupy and possess the same; that he is not the heir or legal representative of the original occupant; that being such heir or legal representative, the original occupant did go off to and join the enemies of this State during the late war, that then, and in either of these cases, the lands so located, shall be granted to the person or persons having so located the same, or to his or their legal representatives; and in order to enable the commissioners aforesaid to determine to which of the claimants a grant shall pass, for such lands so located or occupied, the Surveyor General shall, at the request of the person or persons having located such lands, or at the request of the occupant, return a survey of the lands so in controversy, to the said commissioners, who shall cause a notice to be served on the adverse party, and shall appoint a day to hear the said parties, and their respective evidences; and having so heard, shall determine agreeable to law, to which of the parties such lands shall be granted, and shall accordingly direct the same to be granted; any thing in any law of this State to the contrary notwithstanding.

Mode in which the Commissioners shall determine such adverse claims.

III. *And be it further enacted by the authority aforesaid,* That previous to the passing of any grant to such occupant as aforesaid, he shall produce a receipt from the treasurer of this State, that he has paid to the said treasurer, at the rate of one shilling per acre, for every acre contained in the tract for which he is to obtain such grant as aforesaid, in any certificates signed by Gerard Bancker, as Treasurer of this State.

Before any grant passes to such possessor, he to pay for the land.

IV. *And be it further enacted by the authority aforesaid,* That all persons having military certificates, on bounties of unappropriated lands, shall make their respective locations by virtue of such certificates on or before the first day of July, which will be in the year one thousand seven hundred and eighty-nine; and that no location shall be made by virtue of any such certificate from and after the said first day of July, in the said year one thousand seven hundred and eighty-nine: *Provided,* That no such location which shall have been made on any lands, which were the property of the Oneida, Onandaga, Cayuga, Tuscarora, or Seneca nations of Indians, or of any of them, on the first day of January, in the year one thousand seven hundred and eighty-five, shall take effect, unless such location shall have been made before that day, and unless also the Indian right to such lands shall by a cession in any form from the Indians to the people of this State, be extinguished before the first day of July, one thousand

Locations with military certificates to be made before a certain day, and never after.

Proviso with respect to locations made on Oneida lands.

Said Oneida lands to be applied to the use of the troops when the Indian claim is extinguished.

Persons now entitled, or hereafter to be entitled to grants, to sue out their patents in a certain time, and to have the lands surveyed at their own expence.

Proviso.

Locations made in Chemung, how to be surveyed.

Recital.

Commissioners to examine and ascertain the expence which Timothy Church and others have been at in the survey of the lands of the Vermont sufferers, and each person entitled to a grant, to pay his proportion of such expence, before a patent issues.

Grant to issue to W. Guthrie and others for lots No. 81 and 75, and to P. Frisbee and others, for lots No. 45, and 61, in said lands.

land seven hundred and eighty-nine. *And further*, That if the Indian right to such lands, shall be so extinguished, the tract of land set apart for the use of the troops of this State, by virtue of the first section of the act entitled "An act to prevent grants or locations of the land therein mentioned," passed the 25th day of July, one thousand seven hundred and eighty-two, shall be then appropriated to the use of such troops, instead of the lands now appropriated to such use, by virtue of the act entitled "An act for the speedy sale of the unappropriated lands within this State, and for other purposes therein mentioned," passed the 5th day of May, 1786.

V. *And be it further enacted by the authority aforesaid*, That all persons who are now entitled to letters patent for any lands, shall cause the same to be surveyed at their own expence respectively, by the Surveyor-General or one of his deputies, and shall sue out such letters patent on or before the first day of March next. *And further*, That all persons who shall, after the passing of this act, become entitled to letters patent for any lands, shall cause the same to be surveyed at their own expence respectively, by the Surveyor-General, or one of his deputies, and shall sue out such letters patent within one year from the time they shall respectively become entitled thereto, or in default thereof, that they forfeit their respective rights to such letters patent, and that the lands shall be accordingly grantable to others: *Provided always*, That if the persons entitled to letters patent, shall respectively make it appear, to the satisfaction of the Commissioners of the Land-Office, that the lands could not be surveyed within the periods for that purpose hereby limited, it shall be in the discretion of the commissioners to grant such farther time, and from time to time, to the said several persons, for making the respective surveys, as they shall deem reasonable.

VI. *And be it further enacted by the authority aforesaid*, That all persons having made locations by virtue of military certificates on any lands lying within the town of Chemung shall cause the same lands to be surveyed at their own expence respectively by the surveyor-general or one of his deputies before the first day of July next.

And whereas Timothy Church, Israel Smith, Samuel Bixby and William White, four of the persons deemed to be entitled to lands, in the tract appropriated for the use of the persons who have suffered in opposing the pretended government of Vermont, have caused the said tract and the several allotments therein to be surveyed and run out, and have actually paid, and remain liable to pay monies as and for the expences of such survey: *Therefore*,

VII. *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the commissioners of the land-office, to examine the accounts of the said Timothy Church, Israel Smith, Samuel Bixby and William White, of the expences incurred by them, in and about such survey, and ascertain the amount thereof as the commissioners shall deem just and reasonable, and such amount shall be, and hereby is declared, charged on the whole of the lands so appropriated as aforesaid, and the several persons to whom grants of any of the lands so appropriated as aforesaid, shall have been, or shall be ordered to issue, shall before they shall be entitled to receive their grants, either pay to the secretary of the State for the use of the said Timothy Church, Israel Smith, Samuel Bixby and William White, the respective proportions of the said grantees, of such amount of the expences of the said survey, according to the number of acres granted to the said grantees respectively, or produce to the secretary receipts from the said Timothy Church, Israel Smith, Samuel Bixby and William White, or either of them, to them the said several grantees for the amount of the sums to be paid by them, as their respective proportions of the said expences. That where allotments in the said tract have been allotted to two or more persons, it shall be lawful for the commissioners to grant to the several persons, their respective parts in severalty, as the commissioners shall deem proper. That it shall be lawful for the commissioners to order a grant to issue to William Guthrie, William Guthrie, junior, and Reuben Kirby, for allotment number eighty-one in the tract aforesaid; and that allotment number seventy-five be deemed as allotted to Thomas Baker and Samuel Bixby instead of the said allotment number eighty-one. That it shall be farther lawful for the commissioners to issue a grant to Philip Frisbee, Samuel Frisbee, Philip Frisbee, junior, Ephraim Guthrie,

Guthrie, Eben Landers, Seth Stone, Goold Bacon, Heman Stone, Nathaniel Benton, junior, Joseph Landers and Roderick Moore, and such persons as shall be associates of the said eleven persons last named allotments, numbers forty-five and sixty-one; and they the said William Guthrie, William Guthrie, junior, Reuben Kirby, and the said Philip Frisbee, Samuel Frisbee, Philip Frisbee, junior, Ephraim Guthrie, Eben Landers, Seth Stone, Goold Bacon, Heman Stone, Nathaniel Benton, junior, Joseph Landers and Roderick Moore and their associates, shall pay into the treasury of this State, in any public securities, signed by the Treasurer of this State, at the rate of *one shilling and three pence* per acre for the lands to be granted to them respectively, and to be paid before they shall severally be entitled to receive their respective grants. That where grants for any lands within the tract aforesaid have been or shall hereafter be ordered or directed to issue, if the several grantees shall not within such reasonable time, as the commissioners shall from time to time assign, sue out their respective grants, it shall be in the discretion of the commissioners to order and direct the surveyor-general to sell such lands, and to direct grants to issue to the respective purchasers as is provided in other cases of lands to be sold by the surveyor-general.

Persons not suing out their patents for said lands within a time to be appointed by commissioners, to forfeit their claim to the same.

VIII. *And be it further enacted by the authority aforesaid,* That the commissioners of the land-office shall direct the surveyor-general to survey the island commonly called Nutton-Island, or Governor's-Island, and to lay out the same into lots not exceeding two acres each, with such lanes or streets as the commissioners shall deem proper, and shall direct the surveyor-general to sell the said lots in such manner as he is required to sell unappropriated lands, by the "act for the speedy sale of unappropriated lands," passed the fifth day of May, in the year one thousand seven hundred and eighty-six; and that on such sales, no public securities, other than such as are signed by the Treasurer or Auditor of this State shall be received in payment. *And provided further,* That it shall be in the discretion of the commissioners, to direct such parts of the said island as they shall deem proper to be reserved for fortifications, to remain unsold.

Commissioners to direct Nutton or Governor's island to be laid out in lots and sold.

IX. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the commissioners of the land-office, to issue a grant to John Garnsey of the lands located by him in the tract purchased from the Indians in the year one thousand seven hundred and eighty-five, or of such vacant lands near or adjacent to the lands so located, as shall be equal to the quantity of land which he was entitled to locate.

And to issue a grant to John Garnsey for a certain tract.

X. *And be it further enacted by the authority aforesaid,* That no certificates issued either by William Denning, Joseph Bindon, Jonathan Burrell, John Pierce, Joseph Pannel or Edward Fox shall be received in payment for any lands hereafter to be sold by order of the commissioners of the land-office.

Certain certificates not receivable in payment for lands.

C H A P. XC.

An ACT relating to the forfeited Estates. Passed the 21st of March, 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the office of Commissioner of Forfeitures within this State, shall cease on the first day of September next; and that all real estates forfeited to the people of this State, and thereafter to be sold or disposed of, shall be sold and disposed of by the Surveyor-General of this State, for the time being, who shall for that purpose be vested with the same authorities as are now vested in the Commissioners of Forfeitures; That the form of the conveyance to be executed by the Surveyor-General, shall be as follows, viz.

Office of Commissioners of Forfeitures to cease after the first of September next.

"To all to whom these presents shall come, I, _____, Surveyor-General of the State of New-York, send greeting: KNOW YE, That by virtue of the authority vested in me by the laws of the said State, and in consideration of the sum

Form of conveyance to be given by Surveyor-General.

" of

" of ———, I have granted, bargained, sold, enfeoffed and confirmed, and by these presents do grant, bargain, sell, enfeoff and confirm unto——all the estate, right, title and interest of the people of the said State, of in and to (here describe the lands or tenements.) TO HAVE AND TO HOLD the premises hereby granted, bargained, sold, enfeoffed and confirmed to the said——heirs and assigns, to the proper use and behoof of the said——heirs and assigns forever. IN TESTIMONY WHEREOF I have hereunto set my hand and seal the——day of——in the year of our Lord——and in the——year of the Independence of the said State."

All the right of the State to the lands mentioned in such conveyance to vest in the grantees.

And the conveyance to operate as a warranty.

Commissioners of forfeitures, after a certain day, to deliver all papers relating to their office to the Surveyor-General.

Who, when he deems any of the lands intended for sale to be any wife incumbered, shall give notice thereof before the time of sale.

And in such cases the conveyance not to operate as a warranty.

What kinds of public securities shall be received in payment for forfeited estates.

Any person, after the first day of November next, on producing any bond &c. to the trustees, executed to any attainted person, may pay the amount due thereon to the treasurer in public securities, if the same has not

That all the estate, right, title and interest, both at law and in equity, whether in possession, reversion or remainder, and which in consequence of the attainder or conviction of any person hath become forfeited to, attached or vested in the people of this State, of, in, or to the lands or tenements in the respective conveyances mentioned, shall by virtue of such respective conveyances pass to and vest in the respective grantees, their heirs and assigns; and they shall respectively maintain any action for the recovery of the lands and tenements, any actual seisin or possession thereof in any other person notwithstanding; and such conveyance shall be deemed to operate as a warranty from the people of this State for securing to the respective grantees, their heirs and assigns, the lands and tenements by such conveyances respectively conveyed.

II. *And be it further enacted by the authority aforesaid,* That the commissioners of forfeitures shall, as soon as conveniently may be after the said first day of September next, deliver to the Surveyor-General for the time being, all the maps, papers, conveyances and other documents, in their possession respectively, as commissioners as aforesaid, in any wise relating to forfeited estates; That in all cases where the Surveyor-General, he having the opinion and advice of the Attorney-General, shall deem forfeited lands, to be subject to or incumbered with claims or controversy, and in all cases where he shall deem the people of this State to have a less interest than the absolute property in the whole of the lands, it shall be lawful for him notwithstanding to sell such lands; but it shall be his duty in such cases, at the time and place of sale, and for at least three hours before the sales, to affix in some public and convenient place there, a writing containing a state of all the material facts and circumstances relating to such claim or controversy, or relating to such interest of the State, as far forth as the same shall have come to his knowledge; to the end that all persons who shall be then and there attending with intent to purchase, may be informed of such claim or controversy, and of the nature and extent of the interest of the State in the lands: But the conveyance in such cases shall not be deemed to operate as a warranty from the people of this State; and there shall accordingly be inserted in the conveyance immediately before the words, "IN TESTIMONY" the words following, viz. "these presents however are in no wise to operate as a warranty."

III. *And be it further enacted by the authority aforesaid,* That in all sales of forfeited estates hereafter to be made, no other public securities except such as are signed by the Treasurer or Auditor of this State shall be received in payment.

And whereas notwithstanding the length of time given by the Legislature of this State to such as were indebted to persons, whose estates have been forfeited as aforesaid, to pay the said debts into the Treasury in public securities, there is reason to believe that many of the said debtors have withheld such payments, and not availed themselves of the benefit intended them by such provision; *Therefore,*

IV. *Be it further enacted by the authority aforesaid,* That if any person shall at any time after the first day of November next apply to the Treasurer of this State, and produce to him a bond, bill or other contract, being the evidence of a debt, and made or executed to any person attainted or convicted of adhering to the enemies of this State; and if the debtors shall not theretofore have made any payments into the treasury, as payment on such bond or other contract, or having made a payment or payments, shall not have paid to the full amount of what such debtor ought, by law to have paid in order to be wholly discharged from such bond or other contract, it shall be lawful for such applicant to pay into the treasury, in any public securities issued from the treasury, the amount

amount of what shall appear to be due on such bond or other contract; and where any payment or payments in part hath or have been made into the treasury by the debtor, the amount of such payments in part shall in such cases be deducted from what would otherwise have been due on such bond or other contract; and the Treasurer shall thereupon indorse on such bond or other contract, a certificate of such payment by such applicant, and such applicant, his or her executors or administrators, shall thereupon by virtue of this act, have an action in his or their own name or names, against the debtor or debtors, his, her or their heirs, devisees, executors or administrators, for the recovery of the sum so certified to have been paid into the treasury by such applicant, with lawful interest for the same from the time of such payment. *Provided, That* in computing whatever may be due on such bond or other contract, no interest shall be deemed as having accrued between the first day of January, in the year one thousand seven hundred and seventy-six, and the first day of January in the year one thousand seven hundred and eighty-four.

been paid before by the person executing such bond.

The person paying the same may then have his execution for recovering it from the person who executed such bond, with interest.

And to the end that the debtors and their heirs, devisees, executors and administrators may be completely indemnified against suits on such bonds or other contracts in foreign judicatories:

Recital.

V. *Be it further enacted by the authority aforesaid,* That the plaintiff, in the case of such recovery as last aforesaid, shall not be entitled to an execution, unless he or she shall first have delivered to the clerk of the court, where the recovery shall be had, the bond or other contract, and which shall thereafter remain filed in the office of such clerk. *Provided always,*

Debtors indemnified against recoveries on such bonds in foreign judicatories.

VI. *And be it further enacted by the authority aforesaid,* That nothing in this act contained, shall extend to any bond, bill or other contract, or the monies due thereon, where one or more of the co-obligors have since the war, or do now reside within the dominions or territories of the King of Great-Britain, or to any debts due from the persons who have been inhabitants of this State, from the first day of January, in the year one thousand seven hundred and seventy-six, until the present time, and who have been well attached to the freedom and independence of this State, and actual sufferers by the late war, to any person or persons who have been convicted or attainted as aforesaid, if such debts when contracted did not respectively amount to upwards of fifty pounds each; but that all such debts not exceeding the said amount as aforesaid, shall be and are hereby remitted and forever discharged unless due to joint partners or trustees, where one or more of the partners or the *cestui que trust* have not been attainted or convicted.

This act not to extend to bonds, &c. where the obligor resides in Great-Britain, nor to debts due by citizens of this State, less than fifty pounds.

VII. *And be it further enacted by the authority aforesaid,* That the treasurer of this State, for the time being, shall and may on or before first day of November next, cause advertisements to be printed in two or more of the news-papers printed in this State, notifying all persons having claims against any forfeited estates, that he will at a certain day to be specified in the said advertisements, not less than four months, nor more than six months, after the publication thereof, proceed to a settlement of the said estates, and the several claims thereupon that shall be produced to him, liquidated according to law. And the said Treasurer shall and may at the time specified in such advertisements or as soon after as may be, adjust the several claims upon the said estates; and if the amount of any of the said estates shall be equal to the payment of the liquidated claims upon the same, then the said Treasurer shall immediately proceed to give his certificates for the amount of such claims respectively, in the manner directed by the act, entitled, "An act for the speedy sale of the confiscated and forfeited estates within this State, and for other purposes therein mentioned," altho' the sale of the said respective estates shall not have been closed in the manner prescribed in and by the said last mentioned act.

Treasurer to advertise when he will settle all claims ag. forfeited estates.

If the estates are equal to the payment of such claims; Treasurer to give certificates for the amount.

And whereas several of the persons who are attainted or convicted of adhering to the enemies of this State during the late war, and whose estates have been confiscated, were trustees or executors, and had taken bonds or obligations and other securities for monies in their own names only, or jointly with others, for debts due to innocent persons: *And whereas* it may be doubted whether by operation of law such debts would not be forfeited to the people of this State by such attainders or convictions: *Therefore,*

Recital:

Bonds taken by persons (whose estates have been forfeited) as executors, &c. not to be forfeited, and how actions shall be maintained on such bonds.

VIII. *Be it further enacted by the authority aforesaid,* That in all cases where it shall appear that any bond or obligation, or other security for money, was taken as aforesaid, by any person or persons whose estates have been so as aforesaid forfeited, as executors, or in trust for any other person not convicted or attainted as aforesaid, then and in every such case such debts shall not be forfeited or considered as forfeited to the people of this State, but the like actions shall and may be maintained upon the same bonds, obligations and other securities for money, taken by the said person or persons jointly with another or others, as if the said convicted or attainted person had not been named in such bond, obligation or other security for money: And that it shall not be necessary to name or notice the said convicted or attainted person or persons, in any writ, plaint, process or other proceeding whatsoever that shall or may be brought for the recovery of the said debts. *And further,* That if such attainted or convicted person or persons was or were named alone in any such bond or obligation, or other security for money than the *cestui que trust*, and his or her executors or administrators, shall be, and is, or are hereby enabled to bring and maintain an action upon the same, in his, her or their own name or names, and declare as upon a bond, obligation or other deed or contract, made to the said convicted or attainted person or persons, in trust for him, her or them, or his, her or their testator or intestate, as the case may be; any law, usage or custom to the contrary thereof, in any wise notwithstanding.

Recital.

And for the relief of joint partners, and persons who may have been joint creditors with persons convicted or attainted as aforesaid:

Relief given to persons who have been joint partners and creditors with attainted persons.

IX. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for any such joint partners or creditors, not convicted or attainted, to bring and maintain any action or actions in their own name or names, for any sum or sums due upon any bond, bill, covenant, agreement or contract whatsoever, made to him, her or them, and any other person or persons, who shall or may have been convicted or attainted as aforesaid, suggesting in the declaration, or some other proceeding in the said action, in general terms, that the said person or persons had been convicted or attainted of adhering to the enemies of this State; and the plaintiff or plaintiffs in any such actions shall and may recover in like manner, as if the said convicted or attainted person or persons had been naturally dead, on the ninth day of July, in the year one thousand seven hundred and seventy-six; any law, usage or custom to the contrary thereof, in any wise, notwithstanding. *Provided always,*

The share of the attainted person in the partnership to belong to the State, and to be paid into the treasury.

X. *And be it further enacted by the authority aforesaid,* That the part or share of the person or persons so as aforesaid convicted or attainted, in any debt or sum of money that shall be so as aforesaid recovered by virtue of this law, shall be considered as a debt due to the State from the person or persons recovering the same, and be payable into the treasury of this State, in like manner as other debts to the State are or shall be made payable by law, unless the person or persons so recovering the same, shall be liable for the debts of the co-partnership; in which case, upon his, her or their filing a bill in the Court of Chancery of this State, disclosing the circumstances of the case, and making the Attorney-General, for the time being, a party thereto, the said court may give such relief as shall appear to be equitable.

C H A P. XCI.

An ACT to empower the Commissioners of Forfeitures, for the Western District of this State, to convey the Lands therein mentioned to the present Possessors. Passed the 21st of March, 1788.

Preamble.

WHEREAS it hath been represented to the Legislature, that Oliver Delancey, James Jauncey, Goldsbrow Banyar, and Peter Remsen, were interested in equal proportions in certain lots of land comprehended in a patent of two thousand acres of land granted to Henry Cosby, situate, lying and being in the now county of Montgomery: *And whereas,* it has been further represented that the said Oliver Delancey, James

James Jauncey, Goldsbrow Banyar and Peter Remsen, had agreed for the sale of the lots herein after mentioned, that is to say, lot number two, for the consideration of *one hundred pounds*; number three, for the like consideration of *one hundred pounds*; part of number five, for the consideration of *eighty pounds*; and the other part thereof for the like consideration of *eighty pounds*; part of number six for the like consideration of *eighty pounds*; part of number seven, for the like consideration of *eighty pounds*; part of number eleven for the like consideration of *eighty pounds*; part of number twelve for the like consideration of *eighty pounds*; and the other part thereof for the like consideration of *eighty pounds*: *And whereas*, the shares of the said Oliver Delancey and James Jauncey, in the said tract of land, have by their attainder respectively become forfeited to the people of this State: *And whereas*, application hath been made to the Legislature, to make provision for vesting the title of the people of this State to the one undivided moiety of the said lots of land in the present possessors thereof: *Therefore*,

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That upon payment being made into the treasury of this State, at any time before the first day of August next by the present possessors of the lots, and parts of lots of land herein before mentioned, of the amount of one half of the said consideration money of the said lots or parts of lots of land respectively, in public securities, signed by the Treasurer of this State, upon which securities no interest is to be allowed, and upon their respectively producing to the Commissioners of Forfeitures for the western district of this State, a receipt or receipts from the Treasurer of this State, for such payment or payments, it shall be lawful for the said Commissioners, and they are hereby authorized and required, to convey to each of the present possessors, and to the heirs and assigns of such possessor, of either of the said lots or parts of such lots of land, all the part and proportion of the people of this State, in and to such lot or lots of land, for which the consideration shall be so paid.

Right of the state in said lots to be conveyed to the possessors on their paying certain sums into the treasury.

Commissioners to convey the same on the production of receipts for the payment of such sums.

And the said Commissioners of Forfeitures are hereby authorized to convey to any other person or persons in possession of any other lot or lots in the said tract of land (the whole or part whereof may have been forfeited to the people of this State, by the attainder of the said Oliver Delancey and James Jauncey) all the part and proportion of the people of this State, in and to such lots of land upon payment of an adequate consideration for each lot, in proportion to the interest of the people of this State therein. But no such conveyance as aforesaid shall operate as a warranty against the people of this State; and the Commissioners of Forfeitures shall, in every conveyance to be executed by them in consequence of this act, immediately before the words "In witness," insert the words "These presents, however, are in no wise to operate as a warranty."

Commissioners to convey to possessors the right of the state in all other lots in said tract on the payment of an adequate consideration.

C H A P. XCH.

An ACT for giving Relief in Cases of Insolvency. Passed the 21st of March, 1788.

WHEREAS many of the creditors of unfortunate, but honest insolvent debtors, incline to give such debtors a general discharge, on the delivery of their effects, but are prevented in their humane intentions by some of the creditors to the injury of the rest, and to the prejudice of trade: *For remedy whereof*,

Preamble.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same; That it shall be lawful for any debtor, who now is or hereafter shall become insolvent, in conjunction with so many of his or her creditors, or the attorney or attornies of any creditor, in cases where the principal of such attorney or attornies resides without the State, who have or shall have debts *bona fide* owing to them by such insolvent, amounting at least to three-fourths of all the money owing by such insolvent, whether the same be then due

Insolvents how to be discharged.

or

or to become due and payable thereafter, in order to obtain a general discharge, to present a petition to the Chancellor of this State, or to any one of the Justices of the Supreme Court, or to any one of the Judges of the Court of Common Pleas, praying that such insolvent's estate may be assigned, and such insolvent discharged according to this act;

Petition of creditors restricted.

Provided, That no person shall become a petitioning creditor, who may have purchased or procured to be assigned to him or her any debt or debts due and owing, or to become due and owing by such insolvent, except for so much only as was actually and *bona fide* given for the debt so purchased or procured.

Creditors secured by mortgage, &c. not to become petitioners without giving up to the assignees such mortgages &c. for the benefit of all the creditors.

II. *And be it further enacted by the authority aforesaid*, That any person or persons having any mortgage, judgment, assignment, or other real security, of or upon any lands, tenements, hereditaments, goods or chattels, or thing or things in action whatsoever, either to such person or persons, or to any other or others in trust for such person or persons for securing the payment of any sum or sums of money from such insolvent, shall not for such sum or sums, become or be considered a petitioner in favor of such insolvent, unless such person or persons shall, upon signing the petition aforesaid, add to his or her name subscribed to the same petition or declaration in writing, that he or she doth thereby relinquish and give up to the assignee or assignees, to be appointed as herein before specified, such mortgage, judgment, assignment or other security, for the benefit of all the creditors of such insolvent; and every such mortgage, judgment, assignment and security, so relinquished as aforesaid, and the lands, tenements, hereditaments, goods and chattels and things in action so mortgaged, assigned or affected by such judgment or security, shall, with the residue of such insolvent's estate, vest in the assignee or assignees of such insolvents estate for the purposes aforesaid.

Such mortgage, &c. to vest in the assignees.

Petitioning creditor to annex an affidavit to the petition.

III. *And be it further enacted by the authority aforesaid*, That to every petition to be presented to the said Chancellor, Justice or Judge, shall be annexed an affidavit of each petitioning creditor made before a Master in Chancery, or one of the Justices of the Supreme Court, or one of the Judges of the Court of Common Pleas, that the sum annexed to the name of such petitioning creditor is justly due to him or her, or will become due to him or her at some future time or times, to be specified in such affidavit; and that he or she, or any other person to his or her use, hath not received from such insolvent or any other person, any payment of part of his or her demands against such insolvent in money, or by sale, conveyance, assignment or delivery of any lands, tenements, hereditaments, goods, chattels, or any thing or things in action, or any gift or reward whatsoever upon any express or secret, or implied contract, promise, engagement, intent, trust or confidence, that he or she should become a petitioner, for and in behalf of such insolvent.

The particulars of this affidavit.

Process to be used where creditors petition by attorneys.

IV. *And be it further enacted by the authority aforesaid*, That no debt or debts due by such insolvent to any person or persons who shall petition in favor of such insolvent by attorney, shall be taken and deemed to make any part of the three-fourths in value of the debt due by such insolvent, unless such petitioning attorney shall deliver unto the Chancellor, or to the Justice of the Supreme Court to whom such petition shall be made, or to the Court of Common Pleas of which the Judge to whom such petition shall be made was a member, the original accounts or authenticated copies thereof and the original specialties, of any on which the debt to his principal has arisen, with an affidavit of such principal annexed in the form of the oath herein before prescribed to be taken by every petitioning creditor of such insolvent, which affidavit shall be made before a Judge or Justice of one of the Superior or Supreme Courts, or a Notary Public of the State or Kingdom wherein such creditor shall reside, and be certified under the hand and seal of such Judge, Justice or Notary Public.

Insolvents to deliver to the chancellor, &c. an account of the creditors, &c.

V. *And be it further enacted by the authority aforesaid*, That every such insolvent shall deliver, or cause to be delivered to the Chancellor, or Justice of the Supreme Court, or Judge of the Court of Common Pleas, at the time of presenting such petition, a full, just and true account of all his or her creditors, and the monies owing to them respectively by such insolvent; and also a full, true and just inventory, and account of all the estate both real and personal in law and equity, of such insolvent;

vent; and of all books, vouchers and securities; relating to the same; and the said Chancellor, Justice, or such Judge of the Court of Common Pleas shall administer to such insolvent an oath to the following effect:

"I—, do solemnly swear, in the presence of Almighty God, that the account herewith delivered, is a just and true account of all my creditors, and of the monies owing by me to them respectively, to the best of my knowledge and remembrance; and that the inventory or account, also herewith delivered, is a just and true inventory or account of all my estate, real and personal, both in law and equity, either in possession, reversion or remainder; and that I have not directly or indirectly, sold, leased, or otherwise disposed of or made over, in trust for myself or otherwise (except as is set forth in the same account or inventory) any part of my estate, real or personal, for my future benefit, or for the benefit of any other person or persons, in order to defraud my creditors, or any of them; and that I have not at any time, given any mortgages, bonds, notes, or other specialties, or consented to any judgment passing against me, except for money, property or effects, actually bought and received, to the real value of the sums specified in such mortgages, judgments, bonds, notes or other specialties; and that I have in no instance become a debtor to any of my creditors with intention to defraud any other or others of my creditors, or with intent to obtain the benefit of the act, entitled, "An act for giving relief in cases of insolvency;" which oath being taken by such insolvent, he or she and the petitioning creditors, or one of them, shall cause an advertisement to be published for six weeks successively in the news-paper printed by the Printer to the State, and in one of the news-papers to be printed in the county in which such insolvent shall reside or be imprisoned; and if no news-paper is printed in such county, then in one of the news-papers printed in the city of Albany, and shall also cause a copy of such advertisement, to be put up six Mondays successively on the outward door of the court-house or gaol of the city or county in which such insolvent shall reside or be imprisoned, and by which advertisement all the creditors of such insolvent shall be required to shew cause, if any they have, by such a day as shall be appointed by the Chancellor, or Justice, or if such affidavit is made before a Judge of the Court of Common Pleas, then at the term of such Court, to be held next after the expiration of the said six weeks, specifying the time and place, when and where such term shall be held, why an assignment of the said insolvents estate should not be made, and the said insolvent discharged according to this act; at which day or term so appointed, or on any other subsequent day or term, that the Chancellor or Justice, or Court of Common Pleas may judge proper to appoint; and if no sufficient cause to the contrary appears, and the Chancellor, Justice of the Supreme Court, or the said Court of Common Pleas shall be satisfied, that the said insolvent is justly and truly indebted to the subscribing petitioners in the sums by them respectively mentioned, and that such sums amount in the aggregate to three-fourths of the debts due by such insolvent, and that such insolvent has conformed in all things to those matters required of him or her, according to the true intent and meaning of this act, the said Chancellor, Justice of the Supreme Court, or the said Court of Common Pleas, shall direct a grant or assignment of all such insolvent's estate, both in law and equity, in possession, reversion or remainder, to be made by such insolvent to the person or persons nominated by the petitioners, or a majority of them, in respect to the amount of their said demands on the said insolvent, except such articles of wearing apparel and bedding, as in the opinion of the Chancellor, Justice of the Supreme Court, or Court of Common Pleas aforesaid, shall be reasonable and necessary for such insolvent, and for the family of such insolvent to retain; and also the arms and accoutrements of such insolvent, if any there are mentioned in such inventory, required by law to be provided by any citizen enrolled in the militia.

VI. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Chancellor, Justice, or Court of Common Pleas, before whom such petition shall be depending, upon application by any creditor of such insolvent, to examine such insolvent, his wife, the petitioning creditors, and any other person and persons upon oath, touching every matter relative to the estate, debts and credits of the

Form of the oath to be administered to the insolvent.

Advertisements to be published six weeks, &c.

Requiring creditors to shew cause why assignment of the insolvents estate should not be made.

Chancellor, where to direct assignment of the insolvents estate.

Articles excepted.

Chancellor, &c. to examine any person concerning the estate of insolvents, and to issue warrants for their appearance.

Persons neglect-
ing to appear to for-
feit 50l.

Insolvents to be
discharged on pro-
ducing a certain
certificate.

How a creditor
for 40l. or more, of
a debtor who has
been imprisoned 60
days, when he sus-
pects the effects of
said debtor will be
wasted, shall pro-
ceed to obtain his
discharge.

said insolvent and for that purpose to issue a warrant, under the hand and seal of such Chancellor or Justice, or of a Judge of the said Court of Common Pleas, requiring any person or persons to appear and answer before the said Chancellor, Justice, or Court of Common Pleas, touching the matters by this act directed to be heard by them; and every person who being served with such warrant, shall, without reasonable let or hindrance, refuse or neglect to appear, or appearing, shall refuse to answer upon oath touching the matters aforesaid, shall forfeit the sum of fifty pounds, to be recovered with costs of suit, by action of debt, by any person who will sue for the same, and shall also be committed to prison, by warrant or order of the said Chancellor, Justice or Court, there to remain without bail or mainprize, until he or she shall submit to answer upon oath, as aforesaid.

VII. *And be it further enacted by the authority aforesaid,* That upon such insolvent producing a certificate, under the hand and seal, or the hands and seals of the assignee or assignees, executed in the presence of two witnesses, that such insolvent has granted, conveyed, assigned and delivered for the use of his or her creditors, all his or her estate, real and personal, both in law and equity, in possession, reversion or remainder, except as aforesaid; and all the books, vouchers and securities relating to the same, the Chancellor, Justice, or Court of Common Pleas, shall discharge such insolvent from all such debts due at the time of the assignment, or contracted for before that time, though payable afterwards; and also if in prison, from his or her confinement, which discharge, or the record thereof, shall be a sufficient warrant and authority to the Sheriff or Gaoler for setting such prisoner or prisoners at large; and the said discharge or the record thereof, or transcript thereof, duly authenticated, shall be also conclusive evidence in all Courts within this State of the facts therein contained.

VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any creditor of any person using the trade of merchandize, or getting the greatest part of his living by buying and selling, who hath, or shall have been actually imprisoned for sixty days and upwards upon execution in any civil action, to apply in person or by attorney (if the principal resides without this State as aforesaid) to the Chancellor or any of the Justices of the Supreme Court for relief, in case such creditor or the said attorney shall be apprehensive that the estate or effects of such debtor will be wasted or embezzled; and upon such application and an affidavit being made by such creditor before a master in Chancery or Justice of the Supreme Court, or in case of the residence of such creditor without this State, then in the manner herein before directed, that such person is justly indebted to such creditor, in a certain sum of money then due and to be specified in the said affidavit, and not less than forty pounds, and that such debtor is in prison on execution issued against him in some civil action; and has been so imprisoned for sixty days and upwards, the said Chancellor or Justice shall order a publication to be made in the manner herein before directed, for the creditors of such debtor to appear before him at a certain day in the said order to be specified, and not less than eight weeks after the publication of such order, to shew cause, if any they have, why an assignment should not be made of the said debtor's estate for the benefit of all his creditors; and upon that day or at such subsequent days and times as the said Chancellor or Justice may appoint, if so many of the creditors of such insolvent as he shall be satisfied have debts owing to them, to the amount of three fourths in value of all the debts owing by such insolvent, shall request an assignment to be made of the estate of such insolvent as aforesaid, and no good cause appears to the contrary, it shall be lawful for the said Chancellor or Justice to direct such assignment to be made, in like manner as if the parties had appeared before him, in consequence of a petition as aforesaid; each of the said creditors first making an affidavit, in the manner herein before directed, that the sum demanded by such creditor, is justly due to him or her, or will become due to him or her, at some future time or times to be specified in such affidavit, and that he or she or any other person to his or her use, hath not received from such insolvent or any other person, any payment of part of his or her demand against such insolvent, in money or by sale, conveyance, assignment or delivery of any lands, tenements, hereditaments, goods, chattels or any thing or things in action, or

any

any gift or reward whatsoever upon any express or secret or implied contract, promise, engagement, intent, trust or confidence, that he or she should consent to or request such assignment; and if such insolvent shall make such assignment in ten days thereafter, and shall conform to the directions of this act with respect to petitioning debtors, such insolvent shall be thereupon discharged, in like manner as if he had petitioned for his discharge in conjunction with his creditors pursuant to this act: But if such insolvent shall refuse or neglect to make and execute such assignment as aforesaid, the said Chancellor or Justice shall execute an assignment of such insolvent's estate, both in law and equity, in possession, reversion or remainder to such person or persons as a majority of the creditors of such insolvent in respect to the amount of their demands appearing to him, shall nominate, and with the like exceptions as are herein before mentioned; which assignment shall be equally good, valid and effectual to all intents and purposes whatsoever, and the assignees shall have the like estate and power and be subject to the like duties as if the same had been executed by such insolvent, and shall vest in such assignees the whole of the estate which belonged to the said insolvent, on the day of the first publication of the order so made as aforesaid.

IX. *And be it further enacted by the authority aforesaid,* That if the said insolvent shall so as aforesaid refuse or neglect to make an assignment of his estate, such insolvent shall not be discharged from imprisonment by virtue of this act, unless so many of his creditors as shall have debts owing to them to the amount of three fourths in value of all the debts owing by such insolvent, shall petition the said Chancellor or Justice for his discharge, or unless such insolvent shall have delivered such inventory and account and taken such oath as are herein before prescribed; and so many of his creditors as aforesaid have accepted a dividend under such assignment.

Such insolvent shall not be discharged if he refuses to make an assignment.

X. *And be it further enacted by the authority aforesaid,* That any such insolvent having been discharged in conformity to this act, if prosecuted for any debt or contract before mentioned, or if any other person or persons be sued for any matter or thing done by virtue of this act, it shall be lawful for such person or persons to plead the general issue and give the special matter in evidence.

Insolvent after being discharged, if sued may plead the general issue.

XI. *And be it further enacted by the authority aforesaid,* That in case any such insolvent shall be guilty of perjury, by concealing any part of his or her estate or effects, or shall, after the assignment of his or her estate by virtue of this act, receive any debt or debts due to him or her before such assignment, or if he or she shall secrete any part of his or her estate, or any books or writings relating thereto, with an intent to defraud his or her creditors, or shall procure any person or persons to become a petitioning creditor or creditors, for any sum not *bona fide* due from him or her to such creditor or creditors, or for any larger sum than is really and *bona fide* due from such insolvent to such creditor or creditors, to make such sum in value as required by this act as aforesaid, then, and in every such case, the discharge of the said insolvent under this act shall be void; and his or her person or persons, and estate or effects, shall be subject to the payment of all his or her former debts, as well to his or her petitioning creditors as others; the said discharge to the contrary notwithstanding.

Insolvent found guilty of perjury to pay all his debts.

XII. *And be it further enacted by the authority aforesaid,* That any person or persons, who shall have accepted of any trust or trusts for any insolvent, or shall wilfully conceal or protect any estate, real or personal of any insolvent, from the assignee or assignees of such insolvent, and shall not in fifty days after notice of such assignment being published in the news-paper printed by the Printer to this State, and one other of the public news-papers printed in this State, fully discover and disclose such trust and estate to the said assignee or assignees, shall forfeit the sum of *one hundred pounds*; and double the value of the estate so concealed, to be recovered with costs by action of debt in any Court of Record having cognizance thereof in the name or names of the said assignee or assignees, for the use and benefit of the creditors of such insolvent.

Any person concealing any insolvent's estate to forfeit 100l. &c.

XIII. *And be it further enacted by the authority aforesaid,* That if any person shall swear or depose before a Master in Chancery, Justice or Judge as aforesaid, that any sum of money is due, or owing to him or her from any such insolvent, which sum of money is not really due or owing, or shall swear that more is due than is really due

Any person falsely swearing that money is due to him by an insolvent debtor to forfeit double the sum.

due or owing, knowing the same to be not due or owing, and that such oath is false and untrue; such person shall be liable to pay double the sum so sworn to be due or owing as aforesaid, to be recovered by action of debt in any Court having cognizance thereof in the name or names of the assignee or assignees of such insolvent's estate, and to be divided among all the creditors of such insolvent, in proportion to their demands against such insolvent's estate.

Chancellor may examine any person on oath whom he suspects of concealment.

On refusal to take such oath may commit them to gaol.

If they swear falsely to be guilty of perjury.

Any insolvent who has become bail in any suit, may add the probable sum to be recovered against him by a judgment thereon to the account of his creditors.

Assignees to reserve a dividend for the person recovering judgment.

Judgment not obtained in a certain time the money so reserved to be divided among the other creditors, and the insolvent discharged.

And if said insolvent shall not add such sum to the account, and a judgment be recovered, the person obtaining the same, to recover as much as the other creditors ought to have received for the like sum.

Persons who for a valuable consideration have given credit to an insolvent, to be entitled to a dividend tho' the money was not due at the time of the delivery of the petition.

XIV. *And be it further enacted by the authority aforesaid,* That for the more full discovery of the estate of such insolvent, the Chancellor or Justice of the Supreme Court, or Judge of the Court of Common Pleas, at the request of the assignees, the survivors or survivor of them shall have, at any time after such assignment as aforesaid, full power, and they are hereby required to summon and examine on oath such insolvent, his wife, and every other person whomsoever known or suspected to detain any part of the said insolvent's estate, or to be indebted to it; and in case any person on such summons shall refuse to attend, having no reasonable excuse, or shall refuse to be sworn, then it shall and may be lawful for the said Chancellor, or any of the Justices of the Supreme Court, or such Judge of the Court of Common Pleas, to commit the person so refusing to gaol, till he or she shall submit to be examined concerning what he or she may know relating to such estate, and if any such person or persons shall wilfully and knowingly affirm or swear falsely, the person or persons so offending, shall be liable to the same pains and penalties as those who are convicted of wilful and corrupt perjury.

XV. *And be it further enacted by the authority aforesaid,* That every such insolvent who shall before the delivery of such petition, have become bail in any cause, on account of which he or she has or have reason to think judgment may be had against him or her, and shall make oath, that at the time he or she so became bail, he or she had a clear estate sufficient to answer any demand that could with any probability be made upon him or her as bail, may add to the account of the creditors, and the monies owing by him or her before directed to be given, an account of the manner of becoming bail, and annex such a sum as he or she imagines he or she will be liable to pay on that account; and then the assignees shall reserve in their hands for the space of one year and an half, such a dividend as a creditor for the like sum would have a right to receive; and after judgment obtained against any such insolvent, the person or persons obtaining the same shall be considered in every respect as another creditor, whose debt was due before the delivery of the petition. But if in the space of one year and an half after the petition is delivered, no judgment shall be obtained against such insolvent, the monies so reserved shall be divided among the other creditors in the same manner as the rest of such insolvent's estate, and such insolvent shall be discharged from all obligations as bail, in the same manner as if the sum so annexed to the account of his or her creditors was paid, and if judgment shall be obtained against such insolvent as bail for any sum, within one year and an half after the petition is delivered, and after the division of the produce of his or her estate among his or her creditors, and the said insolvent shall have omitted, either wholly or in part, to annex the said sum to the account delivered, the person obtaining such judgment, shall recover against the said insolvent, either for the whole or the part omitted, as the case shall happen to be, so much as the other creditors of the said insolvent ought to have received for a like just debt and no more. *Provided always,* That the sum for which judgment is obtained against such insolvent, being added to the account of his or her creditors, and of the monies owing to them before directed to be given, the debts owing by him or her to the petitioning creditors, shall still appear to have been three-fourths of all that was owing by the said insolvent.

XVI. *And be it further enacted by the authority aforesaid,* That all persons who have given credit to such insolvent on a valuable consideration, for any sum of money or other matter or thing, which is or shall not be due or payable, at or before the time of the delivery of the petition, shall and may be admitted and considered as creditors whose debts are then due, and shall receive a dividend of such insolvent's estate in the same proportion as the other creditors, deducting thereout only a rebate of interest at the

the rate of *seven per cent.* for what shall be received on such debts (unless such debts shall be payable with interest) to be computed from the actual payment thereof to the time they would have been due.

XVII. *And be it further enacted by the authority aforesaid,* That such assignee or assignees shall have power and authority to dispose of all the real and personal estate of such debtor or debtors, which shall be assigned to him or them, or which ought by virtue of this act to be assigned to him or them, and to convert the same into money, to execute good and sufficient deeds for such real and personal estate, to redeem all mortgages and conditional contracts, and satisfy all judgments, and to recover in his or their name or names, all such real and personal estate of such insolvent, and all deeds and books of accounts and papers respecting the same, and shall have full power and authority to refer to arbitration, settle or compound or agree with any person, indebted to the insolvent, in such manner as shall from time to time appear to such assignee or assignees most advantageous to the creditors of such insolvent, and shall within the space of one year, proceed to make a division of all the money which shall have come to his or their hands of such estate, first giving three months notice of the time and place of making such division, by advertising the same, in the news-paper printed by the Printer to this State, and in one other of the public news-papers printed in this State, and if the whole be not then settled shall within the space of one year thereafter, make a second division of such monies as may come to his or their hands after the first division, and so from year to year, until a final settlement thereof and a just and equal division of the whole be made, and if on settling the estate of the insolvent, a surplus should remain in their possession, after discharging the debt or debts of the said insolvent, the same shall be paid to the said insolvent, his or her legal representative or representatives.

Assignees empowered to dispose of insolvents property, to execute deeds for the same, to redeem mortgages, and to recover in their own names, to refer to arbitration, &c.

And to make dividends yearly of the insolvents property until the whole be divided. And to pay the surplus, if any there be, to the insolvent.

XVIII. *And be it further enacted by the authority aforesaid,* That the assignees, or the survivors or survivor of them, shall at least one month before a division be made, appoint a day, by advertising the same in one or more of the public news-papers, for a general meeting of all such creditors as shall choose to attend, to examine and ascertain the debts due to each creditor, and in case of any controversy relating to such debts, it shall be determined in the following manner, that is to say; the assignees shall nominate two referees, not being creditors of the insolvent, and the creditor whose debt is in controversy, shall nominate two others, and their names shall be separately written on four pieces of paper, as nearly of the same size as possible, which shall be rolled up in the same manner and put into a box, and from thence one of the assignees shall draw out three of the said pieces of paper, and the persons whose names are so drawn, shall finally settle such controversy; and if any referee so appointed shall refuse or be incapable of acting in a reasonable time, a new choice shall be made in the same manner; and in case any such creditor shall refuse to nominate referees on his part, the assignees are hereby empowered to nominate them for him.

Assignees before a division to notify a meeting of the creditors, to ascertain each person's debt; and if any controversy arises, how the same shall be settled.

XIX. *And be it further enacted by the authority aforesaid,* That the assignee or assignees shall, before he or they enter upon the execution of the trust committed to him or them, by virtue of this act, take an oath, to be administered by a Master in Chancery, a Justice of the Supreme Court or any of the Judges of the Court of Common Pleas aforesaid, well and faithfully to manage the insolvent's estate, and keep and render a true account of all that shall come to his or their hands of the same, and for that purpose, he or they shall keep regular books of accounts, to which every creditor at all reasonable times may have recourse, and for the care and trouble incumbent on the assignee or assignees, he or they shall be allowed out of the insolvent's estate, such a consideration as the petitioners or a major part of them shall agree and fix upon; and that all costs of suit, prison and gaol fees, and charges of proceeding under this act, to obtain the discharge of the insolvent, shall be first paid, and then deducting all such costs, charges and expences, as shall be necessarily laid out and expended by the assignee or assignees, together with his or their commissions for his or their care and trouble therein, the residue shall be divided equally among the creditors, in which division no preference shall be given to debts due by specialty.

Assignees before they enter on the business to take an oath for the faithful performance of their trust.

Assignees allowance.

Costs of suit, &c. to be first paid.

No suit in equity to be commenced without the consent of creditors.

Creditor not proving his debt before a dividend is made, not entitled to a dividend.

But if he proves it before a second dividend, he may receive his share.

Insolvents discharged by this act to have 5 per cent out of their estates, if sufficient to pay creditors fourteen shillings in the pound.

This act not to deprive Landlords of distraining for rent.

XX. *And be it further enacted by the authority aforesaid,* That no suit in equity shall be commenced by any assignee, without the consent of the majority of the petitioners or creditors who consented to the assignment, with respect to the amount of their debts as aforesaid, at a meeting held for that purpose, and if any creditor shall neglect or refuse to give notice of, and prove his or her debt within one year and an half after the assignment, and a division of the whole estate be made such creditor shall not be entitled to a dividend, and the whole money shall be divided by the assignees among the other creditors: But in case the whole of such insolvent's estate shall not be divided and settled by the time hereby appointed for the first division, and such creditor shall prove his debt, before the time appointed for the second division, then such creditor shall, before a second division be made among the other creditors, have his said dividend or so much money as he would have been entitled to on the first division, had his debt then been proved, but no creditor shall be admitted to prove his debt, in order to entitle himself to a share in the insolvent's estate, after a second division, but shall by this act be debarred from any share thereof.

XXI. *And be it further enacted by the authority aforesaid,* That every insolvent who shall be discharged by virtue of this act, and in all things conform to the directions thereof, shall be allowed the sum of *five pounds per centum* on the net produce of all his or her estate that shall be recovered or received by the said assignee or assignees, to be paid to him or her by such assignee or assignees, in case the net produce of the said estate after such allowance made, shall be sufficient to pay the creditors of such insolvent, who shall prove their debts in the manner directed by this act, the sum of *fourteen shillings* in the pound; and so as the said *five pounds per centum* shall not amount in the whole to above the sum of *two hundred pounds*.

XXII. *And be it further enacted by the authority aforesaid,* That nothing in this act contained, shall be construed to deprive landlords of the right of distraining for or securing their rents, which by law they had before the making of this act.

C H A P. XCIII.

An ACT for the Payment of the Salaries of the Officers of Government, and other Contingent Charges. Passed the 21st of March, 1788.

Treasurer to pay the sums of money herein after directed.

To the Gov. for administering the government, 1500l.

To the Gov. for defraying incidental charges of government, 150l.

To the Chancellor 500l.

To the Chief Justice 500l.

To the Puisne Justices 500l. each.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Treasurer of the State shall pay out of any unappropriated monies in the treasury, the sums of money herein after directed, viz.

To His Excellency the Governor, for administering the government of this State, from the first day of July last to the first day of July next, at and after the rate of *fifty hundred pounds*.

To the person administering the Government of the State for the time being, to defray the incidental charges which may arise in and about the administering the Government of the State, such sum or sums of money, as he shall from time to time, by warrant under his hand, and the privy seal of the State, draw from the treasury for the purpose, not exceeding in the whole, the sum of *one hundred and fifty pounds*.

To the Honorable Robert R. Livingston, Chancellor of the State, for his services in that station, from the first day of July last to the first day of July next, at and after the rate of *five hundred pounds*.

To the Honorable Richard Morris, Chief Justice of the State, for his services in that station, from and to the respective times aforesaid, at and after the rate of *five hundred pounds*.

To the Honorable Robert Yates, and John Sloss Hobart, Puisne Justices of the Supreme

preme Court of the State respectively, for their services in that station from and to the respective times aforesaid, at and after the rate of *five hundred pounds*.

To John Haring, Melancton Smith, Abraham Yates, junior, and John Lansing, junior, Delegates from this State in the Congress of the United States, at and after the rate of *twenty-four shillings* per day for such time as they shall have attended, or were going to or returning from Congress, to the respective places of their abode, according to such accounts as they shall respectively produce, audited by the Auditor of the State.

Delegates in Congress each 24s. per day.

To the members of the Council of Appointment at and after the rate of *sixteen shillings* per day each for their attendance in Council, in the recess of the Legislature, and for the time of their travelling from and to their respective places of abode, according to such accounts as they shall produce, certified by the Clerk of the said Council.

To the members of the Council of appointment, each 16s per day.

To the members of the Senate and Assembly for each and every day they shall have attended in Senate or Assembly, during the present meeting of the Legislature, and for each and every day they shall have been or may be travelling from and to their respective places of abode, to the place of the meeting of the Legislature, the sum of *twelve shillings* per day each; such travelling charges to be computed at and after the rate of thirty miles per day, agreeable to such accounts thereof as they shall respectively produce, certified by the President of the Senate or Speaker of the Assembly (as the case may be) and the account of the President of the Senate to be certified by the Clerk of the Senate, and the account of the Speaker of the Assembly to be certified by the Clerk of the Assembly.

To the members of the Senate & Assembly each 12s. per day.

To John M'Kesson, and Abraham B. Bancker, Clerks of the Assembly and Senate, each the sum of *thirty shillings* per day, for their respective services during the present session; and also the amount of such accounts for monies by them advanced respectively for the use of the Assembly and Senate, as they shall respectively produce, certified by the President of the Senate and Speaker of the Assembly, as the case may require.

To the Clerks of Senate and Assembly, each 30s. per day.

To the door-keepers of the Senate and Assembly, at and after the rate of *sixteen shillings* per day, agreeable to such certificate thereof as they shall respectively produce, certified by the President of the Senate, or Speaker of the Assembly, as the case may require.

To the Door-keepers of Senate and Assembly, each 16s. per day.

To the Sergeant at Arms, at and after the rate of *sixteen shillings* per day, agreeable to such certificate thereof as he shall produce, certified by the Speaker of the Assembly.

To the Sergeant at Arms 16s. per day.

To the Secretary of the State, for attending the Legislature, during the present session, for the purpose of receiving the laws, and attending the Council of Appointment, from the first day of July last to the first day of July next, at and after the rate of *thirty pounds*.

To the Secretary of State, for attending Council of Appointment, &c. 30l.

To the said Secretary for his services in recording the laws, for making copies thereof, with marginal notes, for the press, and making copies by direction of the Governor, or of the Senate and Assembly, and for engrossing the minutes of the Council of Appointment, from time to time, after the rate of *one shilling and six-pence* per sheet, each sheet to consist of one hundred and twenty-eight words, agreeable to such account thereof as he shall produce, audited by the Auditor of the State.

For Recording and copying the laws, &c. 1s. 6d. per sheet.

To the Secretary to His Excellency the Governor, at and after the rate of *one hundred and fifty pounds* per annum.

To the Governor's Sec. 150.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for Gerard Bancker, Treasurer of the State, to retain in his own hands the sum of *five hundred pounds* for his services as Treasurer, from the first day of July last, to the first day of July next, and the further sum of *six hundred pounds*, for the incidental charges of his office.

Treasurer to retain in his own hands 500l. & 600l. for incidental expenses.

III. And be it further enacted by the authority aforesaid, That the said Treasurer shall pay to the following persons, the sums herein after mentioned, viz.

Treasurer to pay the sums herein after mentioned.

To Egbert Benson, Attorney-General of the State, for his services in that station, from the first day of July last, to the first day of July next, at and after the rate of *six hundred pounds*.

To the Attorney-General 600l.

- State Auditor 350l. To the auditor of the State, the sum of *three hundred and fifty pounds*, for his services as Auditor for one year, ending the twenty-third day of March instant.
- Surveyor General
Such sums as shall be certified by the Auditor. To Simeon De Witt, Surveyor-General of the State, such sum as shall be certified by the Auditor of the State to be due him for his salary and the expences of his office, to the first day of May next.
- Adjutant-General 350l. To Nicholas Fish, Adjutant-General of the Militia of the State, the sum of *three hundred and fifty pounds*, in full for his salary from the thirteenth day of April, one thousand seven hundred and eighty-seven, to the thirteenth day of April next.
- Collectors of New-York 1500l. in quarterly payments. To the Collector of the Customs for the port of New-York, in quarterly payments, at and after the rate of *fifteen hundred pounds* per annum.
- Collectors of Sagg-Harbour 50l. To the Collector of the Customs for the port of Sagg-Harbour, at and after the rate of *fifty pounds* per annum.
- Surveyor and searcher 250l. To the Surveyor and Searcher, at and after the rate of *two hundred and fifty pounds* per annum.
- Each land and tide-waiter 10s. per day. To each of the Land and Tidewaiters, the sum of *ten shillings* per day.
- S. Jones and R. Varick such sums as shall be certified to be due them for revising the laws. To Samuel Jones and Richard Varick for revising and digesting the laws of this State, such sums as shall be certified, by the Auditor of the State to be due to them respectively for their services in that station for the time they have been actually employed therein.
- The executors of Andrew Moodie 40l. To the executors of Andrew Moodie deceased, late Commissary of Military Stores, at and after the rate of *forty pounds* per annum, for his salary, from the thirteenth day of April last.
- To Abraham Hardenburgh and William W. Morris such sums as shall be certified to be due them for running the line between this State and Pennsylvania. To Abraham Hardenburgh and William W. Morris, such sums as shall be certified by the Auditor of this State to be due to them for their services and disbursements in running the line between this State and the Commonwealth of Pennsylvania, allowing to the said Abraham Hardenburgh and William W. Morris respectively, at and after the rate of *forty shillings* per day, for every day they have respectively been upon that service.
- To James Clinton such sum as shall be certified to be due to him for running the line aforesaid in the year 1786. To James Clinton such ballance as shall be certified by the Auditor of the State, to be due to him for his services in running the line aforesaid, in the year one thousand seven hundred and eighty-six, allowing to him the sum of *eight shillings* per day in addition to the sum allowed him in and by the act, entitled, "An act for the payment of the salaries of the officers of government and other contingent charges," passed the twenty-first day of April, one thousand seven hundred and eighty-seven, for every day he has been upon that service.
- To Simeon De Witt such sum as shall be certified to be due to him for running the said land in the year 1786. To Simeon De Witt such ballance as shall be certified by the Auditor of the State to be due to him for his services in running the line aforesaid, in the year one thousand seven hundred and eighty-six, allowing to him the sum of *forty shillings* per day for every day he has been upon that service; and deducting therefrom his salary as Surveyor-General of this State, during the time aforesaid, at and after the rate of *four hundred pounds* per annum, and the further sum of *forty pounds* allowed him in and by the act last mentioned, if the same shall have been paid to him.
- To the Chamberlain of New-York, the balance due for erecting General Montgomerys monument. To the Chamberlain or Treasurer of the Corporation of the city of New-York, such sum as shall be certified by the Auditor of the State to be due to the said corporation, as the ballance of the expences of erecting the monument of the late General Montgomery.
- To the Delegates of the late General Convention held at Philadelphia 32s. per day. To each of the Delegates from this State to the late General Convention of the States assembled in the city of Philadelphia, *thirty-two shillings* per day for their expences, for each day they respectively have been travelling to and from, and attending the said Convention agreeable to such accounts as they shall respectively produce, audited by the Auditor of this State.
- Treasurer directed to advertise and divide money which may be in the treasury after a certain day, among the holders of State interest certificates. IV. And be it further enacted by the authority aforesaid, That if there shall be any money in the Treasury of this State on the first day of January next, after payment of the sums already particularly directed by law to be paid, or that during the present session of the Legislature may be directed to be paid, by the Treasurer of the State, or appropriated for other purposes, the Treasurer shall and may advertise the amount of such

such money so remaining in the treasury unappropriated, and that he will divide the same among the holders of the certificates issued for the four fifth parts of the interest of the public securities which have been loaned to this State, by virtue of the act entitled "An act to emit the sum of *two hundred thousand pounds* in bills of credit, for the purposes therein mentioned," passed the eighteenth day of April, one thousand seven hundred and eighty-six, proportionally to the sums due upon their several certificates. And the said Treasurer shall on the first day of February, proceed to pay the same money in proportion as aforesaid, indorsing the amount of such payments, upon the said certificates respectively.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Treasurer of this State to pay unto James Clinton, John Hathorn and John Cantine, Commissioners for laying out the town of Chemung, on account, the sum of *fifty pounds*.

And to pay fifty pounds to the Commissioners for laying out the town of Chemung,

VI. *And be it further enacted by the authority aforesaid,* That the Treasurer shall pay to Samuel Loudon, the sum of *three hundred and fifty pounds*, being one year's salary as Printer to this State.

And three hundred and fifty pounds to Samuel Loudon.

C H A P. XCIV.

An ACT for the Relief of the Creditors of William Van Derlocht, and for other purposes therein mentioned. Passed the 22d of March, 1788.

WHEREAS before the late repeal of the act for the relief of insolvent debtors, which was passed on the 13th day of April, 1786, proceedings were commenced under the said act, for the assignment of the estate of the said William Van Derlocht, for the benefit of his creditors, and a number of the said creditors have by their petition set forth, that unless the said estate be speedily assigned for their benefit, it will suffer great diminution, and prayed relief in the premises: *Therefore,*

Preamble.

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the said William Van Derlocht, to deliver in writing to the Chancellor, or one of the Judges of the Supreme Court, a full and true account of all his creditors, and the monies owing to them respectively, by him the said debtor, and also a full and true inventory and account of all his estate, both real and personal, in law and inequity, and of all books, vouchers and securities, relating to the same, and the Chancellor or Judge aforesaid, shall thereupon administer an oath to the said debtor, to the following effect: "I, William Van Derlocht, do solemnly swear in the presence of Almighty God, that the account now by me delivered, is a just and true account of all my creditors, and of the monies owing by me, to the best of my knowledge or remembrance, and that the inventory and account now delivered by me, is a just and true account of all my estate, real and personal, both in law and inequity, either in possession, reversion, or remainder; and that I have not directly, or indirectly, sold, leased, assigned, or otherwise disposed of, or made over either in trust for myself or otherwise, except as set forth in the same account, any part of my estate, real or personal, for my future benefit or in order to defraud my creditors. So help me God." Which oath being taken by the said William Van Derlocht, he shall make a grant or assignment of all his estate both in law and equity, to Hendrick Wyckoff, Lewis Ogden and Jacob Hallet, of the city of New-York, Merchants, or any two of them, in trust for all his creditors, and upon the said William Van Derlocht's producing to the Chancellor or Judge aforesaid a certificate under the hands and seals of Hendrick Wyckoff, Lewis Ogden and Jacob Hallet, aforesaid, or any two of them, executed in the presence of two witnesses, that the said William Van Derlocht has granted, conveyed, assigned and delivered for the use of his creditors, all his estate, real and personal, both in law and in equity, except as herein after mentioned, and all books, vouchers and securities

William Van Derlocht to render an account of all his creditors, and an inventory of all his estate, to the Chancellor, or Judge of the Supreme Court who shall administer to him an oath.

Form of said oath.

And after taking said oath shall make a grant of all his estate to the assignees herein mentioned in trust for his creditors, and on producing a certificate thereof from the said Assignees to the Chancellor, shall be discharged from imprisonment.

relating to the same, the Chancellor or Judge aforesaid, shall discharge the said William Van Derlocht from his imprisonment; which discharge, or the record thereof, shall be a sufficient warrant to the Sheriff or Gaoler, for setting the said William Van Derlocht at large.

And having conformed in all things to the directions of this act shall be discharged from all his debts.

II. *And be it further enacted by the authority aforesaid,* That the said William Van Derlocht, having given up his estate, and conformed in all things to the directions of this act, shall be discharged from all debts due at the time of the assignment, or contracted for before that time, though payable afterwards, and if prosecuted for any such debt or contract, may plead the general issue, and give the special matter in evidence.

But if he is guilty of perjury by concealing his estate, or any other fraud, then such discharge to be void.

III. *And be it further enacted by the authority aforesaid,* That in case the said William Van Derlocht, shall be guilty of perjury, by concealing any part of his estate or effects, or shall, after the assignment of his estate by virtue of this act, receive any debt or debts due or owing to him before such assignment, or if he shall secrete any part of his estate, or any books or writings relating thereto, with an intent to defraud his creditors, then and in such case, the discharge of the said William Van Derlocht under this act shall be void, and his person and effects subject to the payment of all his former debts.

Powers given to Assignees of insolvents by a former act, revived with respect to the Assignees in this act.

IV. *And be it further enacted by the authority aforesaid,* That the powers and authorities vested in assignees, in and by the act entitled "An act for the relief of insolvent debtors," and which was repealed on the eighth day of February last, be and the same are hereby revived, so far as they respect Hendrick Wyckoff, Lewis Ogden and Jacob Hallett aforesaid, assignees of the said William Van Derlocht; and the said Hendrick Wyckoff, Lewis Ogden and Jacob Hallett, assignees aforesaid of the estate of the said William Van Derlocht, be, and they hereby are authorised and empowered to act in the same manner, and to the same effect, as if the said act had never been repealed.

Sheriffs directed to discharge all persons confined in prison, for any debt not exceeding £.10.

V. *And be it further enacted by the authority aforesaid,* That all and every person and persons, who have been actually confined for thirty days previous to the passing of this act in any gaol within this State, upon execution or upon any other writ or process, or by virtue of any judgment or order of any Court of Record, or warrant from any Justice of the Peace, for any debt or debts, or sum or sums of money, or fine or fines, or forfeiture or forfeitures, not exceeding in the whole the sum of ten pounds, exclusive of costs, shall be discharged from such imprisonment, and the Sheriff, Gaoler or keeper of the gaol, in which any such person is confined as aforesaid, shall upon notice of this act, discharge such person out of custody, if detained for such debt, sum of money, fine or forfeitures, and for no other cause. And no such Gaoler shall be liable to any action of escape, or other suit or information upon account thereof. And if any action, suit or information shall be brought or exhibited against any such Gaoler or Sheriff for or on account of such discharge, such Gaoler or Sheriff may plead the general issue, and give this act in evidence; and if the plaintiff shall be non suited, or discontinue his or her action, or judgment shall be given against him or her upon a verdict or demurrer, the defendant shall have treble costs.

No person discharged by this act ever to be imprisoned again for the same cause.

VI. *And be it further enacted by the authority aforesaid,* That no person discharged from imprisonment by virtue of this act, shall at any time thereafter be imprisoned for the same cause, and if any such person so discharged shall be arrested for the same cause, it shall be lawful for any Judge of the court, out of which the process shall have issued to discharge such person out of custody, so as such person do give a warrant to some attorney of the same court to appear and plead to such action: *Provided always,*

But his estate to be liable for the debt, and the judgment to stand against him.

VII. *And be it further enacted by the authority aforesaid,* That notwithstanding such discharge, all and every debt and demand against such person so discharged, and all and every judgment and decree had or obtained, or to be had or obtained, against him or her, shall stand and be good and effectual in law, to all intents and purposes against the lands, tenements, hereditaments goods and chattels of such person so discharged, which he or she or any person or persons for him or her hath at the time of such discharge, or at any time thereafter may have, or be in any wise seized or possessed of,

of, or entitled to either in law or equity, except the arms and accoutrements of such person, and the necessary wearing apparel and bedding of himself, and of his wife and children. And it shall and may be lawful for any creditor of such person so discharged, and at whose suit such person is now confined, and for the executors or administrators of such creditor to take out a new execution against the lands, tenements, hereditaments, goods and chattels of such person so discharged, except as before excepted, for the satisfaction of his or her debt, in such sort, manner and form, as he or she might have done if such person had never been taken in execution. And in case no judgment is obtained by such creditor, against such person so discharged, then it shall be lawful for such creditor to continue or prosecute his or her action to judgment, and to take out execution as aforesaid against the lands, tenements, hereditaments, goods and chattels of such person or persons so discharged, except as before excepted for the satisfaction of his or her debt or damages, and costs of suit; but the person of such debtor so discharged shall not be imprisoned for the same debt or debts, sum or sums of money, fine or fines, forfeiture or forfeitures, for which he or she is now confined, or for any or either of them.

And his creditor may take out a new execution.

But if no judgment has been had against such debtor, the action may be continued to judgment and execution.

VIII. And be it further enacted by the authority aforesaid, That the four last clauses of this act shall extend to Luke Wyngart and Tryntie his wife, and William Hill now confined in the gaol of the city and county of Albany, and William Betts and Ebenezer Prentice, now confined in the gaol of the city of New-York upon execution, although the debts or sums for which they are respectively confined exceed the sum of ten pounds.

Four last clauses to extend to certain persons herein named, tho' their debts exceed ten pounds.

C H A P. XCV.

An ACT directing the Settlement of Public Accounts, and for other Purposes therein mentioned. Passed the 22d of March 1788.

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the Auditor of this State for the time being, shall be, and hereby is appointed sole Commissioner, for and in behalf of this State, to settle all accounts between this State and the United States; and for that purpose that he shall be authorised, to settle and agree with any and every commissioner, agent or other person appointed or authorised or hereafter to be appointed or authorised for the purpose, by or in behalf of the United States, touching the said accounts, in such manner and on such terms, as the said Auditor shall deem most eligible; and also on behalf of this State to appear before any Commissioner or other persons appointed or authorised, or hereafter to be appointed or authorised to hear, enquire into, or determine, touching the claims or demands, which this State may have or make against the United States, and before such Commissioners or other persons to manage and prosecute such claims or demands, on the part of this State; and that it shall be lawful for the Treasurer to deliver over to the Auditor such vouchers and papers in the treasury, as the Treasurer shall deem the Auditor ought to be possessed of, in order to exhibiting or managing any of the claims or demands of this State against the United States; and it is hereby declared to be the duty of the Treasurer from time to time, on the application of the Auditor, to advise the Auditor touching the said accounts, and the mode and terms of the settlement of the said accounts, as the interest of the State shall, in his judgment require: That William Denning shall be and hereby is appointed to collect vouchers, and proofs, and otherwise to assist the Auditor in preparing, stating and settling the said accounts, as the Auditor shall from time to time require, and in the absence of the said Auditor, at any time, the said William Denning shall in such cases be authorised to appear in behalf of this State before such Commissioners or other persons authorised to hear, enquire into, and determine

Auditor appointed sole Commissioner for settling the accounts between this State and the United States, with any persons thereunto authorised.

And the Treasurer to deliver to him all papers necessary for the purpose, and to give him his advice when thereunto required.

William Denning appointed to collect vouchers, and assist the Auditor in settling said accounts.

mine

Office of Auditor to liquidate and settle the accounts of the troops of this State to cease after a certain day, and the papers and signed certificates, &c. to be delivered to the Treasurer.

And the Treasurer to deliver such certificates to the persons entitled to receive them.

Reciting that accounts between this State and Connecticut, relative to cannon and ball still remain unsettled.

Auditor to liquidate and settle the same.

Recital.

Auditor to collect vouchers relative to Powder delivered to the State of South-Carolina, and the Governor to apply for payment.

Reciting that a balance is due to Mathew Dubois for forage purchased by him.

Treasurer to issue certificates to said Dubois for the same.

Reciting that the Commissioners of sequestration sold the property of David Mulford to the amount of £.249-4.

Treasurer to issue certificate for said amount.

Reciting that Michael Connolly hath paid certificates to a certain amount to the Treasurer.

mine, and before such Commissioners or other persons, to manage and prosecute the claims and demands of this State: And he the said William Denning, shall be allowed for his services in the said business, at the rate of *three hundred and fifty pounds* per annum, from the time he shall enter on the said business.

II. *And be it further enacted by the authority aforesaid,* That the office of Auditor to liquidate and settle the accounts of the troops of this State, in the service of the United States, shall cease from and after the first day of June next. *And further,* That the said Auditors shall on or before the said first day of June next, deliver to the Treasurer of this State, all the certificates for pay, or depreciation of pay, signed by the said Auditors, pursuant to any act of the Legislature of this State, and yet remaining in their hands, together with all the books, checks, blanks and papers belonging to their said office: And the Treasurer is hereby authorised upon demand, to deliver all such certificates so signed, to the respective persons entitled to the same.

And whereas it appears that the committee of the convention in the year one thousand seven hundred and seventy-six, did purchase of the State of Connecticut a quantity of cannon and ball, some of which cannon were placed in the forts and works in the highlands, and others of them were taken for the Continental frigates in Hudson's-River, and the account for the said cannon and ball, remains still unsettled between this State and the State of Connecticut, and as this State hath claims on the said State, for cannon delivered at New-Haven, and for other articles furnished the said State in the course of the late war:

III. *Be it further enacted by the authority aforesaid,* That the Auditor of this State, with the direction of the committee appointed by law to assist him, be, and he is hereby directed to state the claims of this State against the said State of Connecticut, and to cause the said account to be liquidated and settled, and to charge the amount of the cannon and shot, received from the said State to the United-States.

And whereas the State of South-Carolina, is indebted to this State for a quantity of gun-powder they received in the course of the late war: *Therefore,*

IV. *Be it further enacted by the authority aforesaid,* That the Auditor of this State be, and is hereby directed to collect the vouchers and ascertain the value of the said powder, and deliver the same vouchers and accounts to the person administering the government of this State for the time being, who is hereby requested to make application for the payment thereof, to the Executive of the said State.

And whereas it appears by a certificate from the Auditor of this State, that there is due to Mathew Dubois, for purchasing forage under the direction of the State-Agent of this State, a ballance of *three hundred and ninety-four pounds sixteen shillings*:

V. *Be it enacted by the authority aforesaid,* That it shall be lawful for the Treasurer of this State, to issue to the said Mathew Dubois, a certificate for one-third of the amount thereof, which certificate shall be received in payment of any specie tax, due in the county of Ulster, and a certificate in the usual form for the ballance.

And whereas by a certificate from Patrick Barber one of the commissioners of sequestration for the county of Ulster, it appears that the said commissioners have in the year one thousand seven hundred and seventy-seven, sold the property of David Mulford to the amount of *two hundred and forty-nine pounds four shillings*, which it appears reasonable should be repaid to him: *Therefore,*

VI. *Be it further enacted by the authority aforesaid,* That the Treasurer of this State be and he hereby is directed to issue to the said David Mulford, a certificate for the amount thereof, bearing interest at the rate of *six per cent per annum*, from the first day of January in the year one thousand seven hundred and seventy-eight.

And whereas Michael Connolly hath paid into the Treasury of this State *one thousand eight hundred and sixty-six pounds, eight shillings and five pence*, in certificates given for interest by the Treasurer of this State, in discharge of so much on a bond given by the said Michael Connolly to the Treasurer of this State: *And whereas* the said Treasurer is doubtful whether he ought by law to receive the said certificates in discharge of the said ballance: *Therefore,*

VII. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful

lawful for the Treasurer of this State, and he hereby is required, to accept the said certificates, and give credit on the said bond for the same.

VIII. *And be it further enacted by the authority aforesaid,* That the seventh section of the act, entitled, "An act for the relief of persons who paid money into the treasury of this State, in consequence of a resolution of the Committee of Safety, of the first day of March one thousand seven hundred and seventy-seven, and for other purposes therein mentioned," shall be and hereby is repealed, from and after the first day of May next.

Seventh section in an act relative to paying monies to the Treasury, in consequence of a resolution of the committee of safety repealed.

And whereas Samuel Townsend a deputy under the late State-Agent has been sued for a yoke of oxen by him taken for the use of this State, and a judgment recovered against him with costs of suit, and it appears that there is a considerable ballance due to him from this State, which by law he must receive in treasury notes, which notes will not be taken in payment on the said judgment: *Therefore,*

Reciting that Samuel Townsend has been sued for a yoke of oxen taken by him for the use of the State.

IX. *Be it further enacted by the authority aforesaid,* That the Treasurer of this State be, and he is hereby directed to advance to the said Samuel Townsend, the sum of *forty pounds* in part of the ballance due to him as aforesaid. *And further* to pay the costs of the said suit against the said Samuel Townsend, to be ascertained by the Auditor of the State.

Treasurer to advance him *forty pounds*, on the ballance due on his accounts, and to pay the costs of suit.

And whereas the committee of New-Windsor did in the year one thousand seven hundred and seventy seven, advance to several distressed women and children; whose husbands and fathers were either killed or taken prisoners at Fort-Montgomery, the sum of *one hundred and twelve pounds*, Continental money; and it is reasonable that compensation should be made to them:

Reciting that the committee of New-Windsor advanced a sum of Continental money to certain distressed women and children.

X. *Be it further enacted by the authority aforesaid,* That the Auditor of this State be, and is hereby directed to ascertain the value of said money, with the interest thereon, and certify the same to the Treasurer of this State, who is hereby required to pay the same to Samuel Brewster, chairman of said committee, out of any unappropriated money in the treasury.

Value of said sum to be ascertained by the Auditor, and paid by the Treasurer.

And whereas John Cruger and Leonard Lispenard, surviving trustees of the estate of the late Abraham De Peyster, deceased, have commenced and prosecuted to final judgment, in the Supreme Court of this State, for the use of the people thereof, an action on a bond given to the said trustees by Lawrence Kortright, John R. Myer and Peter Kettletas, for the sum of *six hundred and ninety pounds*, and bearing date the seventh day of October, in the year of our Lord one thousand seven hundred and sixty-eight: *And whereas*, the said obligors, by their humble petition, have represented that the land for which the said bond was given is become of little value by reason of the waste committed thereon during the late war, by the troops of the United States, for which they have received no compensation whatever, and have therefore prayed for leave to discharge their said debt in the public securities of this State, which prayer appearing reasonable to the Legislature: *Therefore,*

Reciting that John Cruger and Leonard Lispenard, Trustees of Abraham De Peyster's estate, have recovered a sum of money for the use of the States, from Lawrence Kortright and others.

XI. *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Treasurer of this State, and he is hereby authorized and required to receive from the said obligors, or either of them, at any time before the first day of May next, the amount of the principal and interest of the said bond, in any of the certificates by him issued for interest, pursuant to the act, entitled, "An act for emitting the sum of two hundred thousand pounds in bills of credit for the purposes therein mentioned," passed the eighteenth day of April one thousand seven hundred and eighty-six; and that upon the payment of the said principal and interest in certificates as aforesaid, and of the costs of the said suit in the current money of this State, all further proceedings on the said judgment shall be stayed, and the said bond be delivered up to the defendants to be cancelled. And the said Treasurer shall and may in like manner receive payment from the executors, administrators or devisees of the late Philip Livingston, Esquire, deceased, of the sum due upon any contracts made by him in his life time with the others of the said trustees or any of them on account of the estate of the said Abraham De Peyster, deceased.

Treasurer authorized to receive said sum in certificates issued for interest.

And to receive the like payment from the executors of Philip Livingston deceased, for any sums due on account of said De Peyster's estate.

XII. *And be it further enacted by the authority aforesaid,* That the Treasurer

Treasurer to discontinue any suits com-

comenced against
Sheriffs Ten Broeck,
Wendell and Sleght,
upon certain condi-
tions.

Rent due for con-
fiscated estates, to
be paid in certifi-
cates.

In all actions to
be commenced by
the Treasurer, it
shall be sufficient to
declare generally
that the person is
indebted to him in
such an amount.

And no suit to be
abated by his death.

Treasurer authori-
zed when he has
more indents than
necessary to pay all
arrears upon the
Continental requi-
sitions, to exchange
the overplus for
State certificates.

And to do the
same with the Con-
tinental principal
certificates, when he
has sufficient to
draw more interest
than the annual re-
quisition.

Treasurer authori-
zed to receive from
Swantie Flemming
and others, the a-
mount due on cer-
tain mortgages to
the Loan officers of
the late Colony, in
public securities.

Reciting that Al-
lice Archer recover-
ed a certain sum
from Israel Honey-
well for slaves sold
by

of this State for the time being, shall and may discontinue any suit or suits by him com-
menced against John Ten Broeck, and Hendrick J. Wendell, Sheriffs of the county
of Albany, and John Sleght, Sheriff of Ulster, pursuant to the thirty-second section
of the act, entitled, "An act to compel the payment of the arrears of taxes, for en-
forcing the payment of fines and amerciaments, obliging Sheriffs to give security for
the due execution of their offices, and for other purposes," passed November the twen-
ty-sixth, one thousand seven hundred and eighty-four, upon their exhibiting and filing
on oath such account and list as directed by the said act, and paying the amount thereof
liquidated by the Auditor, together with the costs of such suit or suits, to the said Trea-
surer, on or before the first day of August next.

XIII. *And be it further enacted by the authority aforesaid,* That it shall be
lawful for any person or persons who are indebted for rent on any confiscated or forfeited
estate, to pay the same into the Treasury, in any certificates issued by the Treasurer or
Auditor of this State.

XIV. *And be it further enacted by the authority aforesaid,* That in all cases where
the Treasurer of this State is authorized, empowered or required, to sue or prosecute for
any debts, penalties or forfeitures by any law of this State, it shall be sufficient for the
Treasurer of this State for the time being in any action or suit brought, or to be brought,
for any such debts, penalties or forfeitures, to declare generally, that the defendant is in-
debted to the Treasurer of the State of New-York, in the amount of such debt, penalty,
or forfeiture, by virtue of the act entitled "An act (here insert the title of the act in
consequence of which the suit is brought) to be paid to the Treasurer of the State of
New-York for the time being, for the use of the people thereof, when required, and to
give the special matter in evidence. And no such action or suit shall be abated or dis-
continued by the death, resignation or removal from office of the Treasurer, but shall
and may be continued and prosecuted to effect, by his successor in office.

XV. *And be it further enacted by the authority aforesaid,* That if at any time, the
Treasurer of this State shall have more indents issued for interest due on any certificate
given by order of the United States, in his possession, than are or will be sufficient to
pay all the arrears due upon requisitions of the United States in Congress assembled,
payable in such indents, then it shall be lawful for the said Treasurer, by and with the
advice and direction of the committee appointed by law to assist the Auditor of this
State, to exchange the said indents with any person or persons, for any of the principal
or interest certificates of this State, or otherwise dispose thereof, as they may think most
for the interest of the State; and if there should be at any time in the treasury a greater
quantity of the principal certificates of the United States than will be sufficient to draw
interest equal to the amount of the annual requisitions of Congress, then it shall be law-
ful for the said Treasurer, by and with the advice and direction of the said Committee,
to exchange such overplus with any person or persons, for any of the principal or inter-
est certificates of this State, signed by the Treasurer, or otherwise to dispose thereof, as
they may think most for the interest of the State.

XVI. *And be it further enacted by the authority aforesaid,* That it shall and may
be lawful for the Treasurer of this State for the time being, to receive from Swantie
Flemming and Pierre Edward Flemming, her son, and also from Effie Job, the a-
mount of the principal and interest due upon the several mortgages executed to the
Loan-Officers of the late Colony of New-York, by Peter Graham and Samuel Job,
respectively, in any public securities signed by the Treasurer or Auditor of this State, in
like manner as if the mortgaged premises had not been sold. *Provided,* That such se-
curities be paid to the said Treasurer within thirty days after the passing of this act:
And the Treasurer shall and may thereupon return to the said Swantie Flemming and
Pierre Edward Flemming, and to the said Effie Job, the amount of the sums which
they have respectively paid in discharge of the said mortgages, if they shall respectively
have come into the treasury of this State.

And whereas, Alice Archer hath lately recovered in the Supreme Court, against Israel
Honeywell, late a Commissioner of Sequestration for the county of Westchester, the
sum of *one hundred and fifty-six pounds*, the amount of the damages and costs in a suit
for the taking of certain slaves, and which said slaves were taken and sequestered for the
use

use of the State, and one of the said slaves, valued at *twenty pounds*, was concealed after he had been seized and taken, so that no sale hath at any time been made of the said slave by the said Israel Honeywell, but the value of which said slave was included in the said sum of *one hundred and fifty-six pounds*; and the said Israel Honeywell hath compounded with the said Alice Archer in relation to the said slave; and he hath relinquished to her the said slave, and she hath in consideration thereof, agreed that the sum of *twenty pounds* should be deducted from the amount of the said judgment, so that the said Israel Honeywell hath a claim of indemnity from the State against the said judgment, to the amount only of *one hundred and thirty-six pounds*: *Therefore,*

by him as a Commissioner of Sequestration.

XVII. *Be it further enacted by the authority aforesaid,* That it shall be lawful for the Auditor of this State, to allow to the said Israel Honeywell, on the final settlement of his account as a Commissioner as aforesaid, a credit against the State to the amount of the said sum of *one hundred and thirty-six pounds*. And if on such settlement, a balance shall be due to the said Israel Honeywell, the Treasurer shall pay to the said Israel Honeywell the amount of such balance; and such payment shall, as far forth as to the amount of *one hundred and thirty-six pounds* be made in money; and if the said Israel Honeywell shall already have finally settled his said accounts, and any balance is due to him from the State, the Auditor shall give him a certificate thereof; and the Treasurer shall thereupon pay to him the said sum of *one hundred and thirty-six pounds*; but if on such final settlement already made, a balance is due from the said Israel Honeywell to the State, the said Israel Honeywell shall be allowed a credit to the amount of the said sum of *one hundred and thirty-six pounds*, against such balance so due from him; and if on being allowed such credit, there shall then arise a balance due to the said Israel Honeywell, the Treasurer shall pay to him the amount of such balance.

Auditor to allow said sum on the settlement of said Honeywell's account, and Treasurer how to pay it.

And whereas Malcolm Morrison, a person attainted of adhering to the enemies of this State, did on the 31st day of January, one thousand seven hundred and seventy-five, mortgage in fee a parcel of land containing three hundred and forty acres, in the county of Albany, to John Delancey, for the securing the payment of *four hundred and ten pounds*, with lawful interest; and the Commissioners of Forfeitures for the Western district, not having knowledge of the said mortgage, did on the thirty-first day of April, in the year one thousand seven hundred and eighty-one, for the sum of *eighteen thousand three hundred pounds*, in the then paper currency, convey to Abraham Hodges two hundred and eighty acres, parcel of the said mortgaged premises: *Therefore,*

Reciting that Malcolm Morrison mortgaged certain lands to John Delancey, which were afterwards sold by the Commissioners.

XVIII. *Be it further enacted by the authority aforesaid,* That the Treasurer shall pay to the said Abraham Hodges a sum equal to the actual value of the sum of *eighteen thousand three hundred pounds*, at the time of the payment thereof to the Commissioners by the said Abraham Hodges, to be ascertained agreeable to the rule mentioned in the proviso to the first clause of the act for the further amendment of the laws directing the sales of forfeited estates, passed the thirty-first day of March, in the year one thousand seven hundred and eighty-one; together with lawful interest from the said time of such payment, to the Commissioners, and the amount of the costs in the suits commenced against him by the said John Delancey, touching the said lands; and that it shall be lawful for the Commissioners of Forfeitures for the Western District, to convey to the said Abraham Hodges, by conveyance in the usual form, and for the consideration of *five shillings* to be expressed in the conveyance, the residue of the said mortgaged premises, and such payment to the said Abraham Hodges, and such conveyance as last aforesaid, to be deemed in full satisfaction of all warranties from the State to the said Abraham Hodges, touching the said lands.

Treasurer to repay to Hodges the money by him given for said lands and how.

And whereas the Commissioners of Forfeitures for the Middle District, did for the consideration of *two thousand six hundred and eighty-eight pounds* convey to Jacobus Swartwout a tract of land in the county of Orange, forfeited by the attainder of Theodorus Snedecker, who took the said lands by devise from his brother Teunis Snedecker, charged with the payment of a legacy of *one hundred pounds*, to Sarah the wife of Luke Teller; a like legacy to Neeltie the wife of David Brower; a like legacy to Ariantie the wife of Solomon Waring; a like legacy to Mary Snedecker, and a like legacy to Rebecca Snedecker: *Therefore,*

Recital.

XIX. *Be*

Treasurer to pay
said legacies to the
legatees.

XIX. *Be it further enacted by the authority aforesaid,* That the Treasurer of this State shall from time to time, as the Attorney-General shall certify to him that the same remains respectively as yet owing and chargeable on the said lands, pay to the said several legatees, or their legal representatives, the said respective legacies; and that he shall also pay to the said Luke Teller the costs which have accrued in a suit, in the name of the said Luke Teller and Sarah his wife, against the said Jacobus Swartwout for the recovery of the said legacy bequeathed to the said Sarah,

Recital.

And whereas the said Commissioners did, for the consideration of *two hundred and ninety pounds ten shillings*, convey to Cornelius Decker a tract of land situate in the county of Ulster, as forfeited by the attainder of Latting Carpenter, and containing one hundred and ninety-nine acres; and the said Cornelius Decker did afterwards convey the said lands to Stephen Case, who conveyed fifty acres, parcel of the said lands, to Nathaniel Quimby; one hundred and thirty acres, other parcel of the said lands, to Thomas Mott and Jacob Mott, and the residue of the said lands to David Finch; and the said vendees under the said Stephen Case, have been evicted in due form of law, at the suit of the said Latting Carpenter, for want of title in the people of this State: *Therefore,*

Treasurer to re-
pay vendees certain
sums together with
the costs of suit.

XX. *Be it further enacted by the authority aforesaid,* That the Treasurer of this State shall pay to the said Nathaniel Quimby the sum of *seventy-five pounds*, to the said Thomas Mott and Jacob Mott the sum of *one hundred and ninety-five pounds*, and to the said David Finch the sum of *twenty-eight pounds ten shillings*, in full satisfaction of the warranties from this State; and that he shall also pay to the said Thomas Mott and Jacob Mott, to the said Nathaniel Quimby, and to the said David Finch, severally, the costs accrued on the part of the plaintiff in the suits against them severally, by the said Latting Carpenter, for recovery of the said lands.

Treasurer to pay
Nathaniel Platt two
sums of 50l. each,
for legacies paid by
him, charged on
lands forfeited by
the attainder of Jo-
seph Tobias.

XXI. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Treasurer to pay to Nathaniel Platt, the sum of *fifty pounds*, with the lawful interest for the same, from the fourteenth day of January, in the year one thousand seven hundred and eighty-four; and the like sum of *fifty pounds*, with the lawful interest for the same, from the second day of May, in the year one thousand seven hundred and eighty-five, to reimburse him for the like several sums paid by him at the respective times aforesaid, in satisfaction of two several legacies of *fifty pounds* each, the one to Elizabeth the wife of Samuel Badgley, and the other to Sarah the wife of Zacheus Newcomb, and charged on lands deemed to be forfeited by the attainder of Joseph Tobias, and conveyed to the said Nathaniel Platt, by the Commissioners, for procuring a sum in specie.

Attorney General
to enquire into the
interest of persons
not attainted, in cer-
tain monies secured
by certain mortgages
from Duncan Camp-
bell to Roger Mor-
ris and others, on
certain confiscated
lands in Dutchess
county.

XXII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Attorney General to enquire touching the interest of any and every person and persons not attainted of adhering to the enemies of this State, in the monies intended to be secured by a certain mortgage of lands in the county of Dutchess from Duncan Campbell to Roger Morris, Beverly Robinson, John Ogilvie, Nathaniel Marston and Adolph Philipse, dated the fifth day of May, in the year one thousand, seven hundred and seventy two, for the securing the payment of *one thousand and fifteen pounds* with interest, and which lands as deemed forfeited by the attainder of the said Duncan Campbell, have been conveyed by the Commissioners of Forfeitures of the Middle District, to Thomas Hunt; And that it shall be lawful for the Treasurer to pay to the said several persons so interested as aforesaid, and not attainted, or their legal Representatives, their respective parts of the said monies intended to be secured by the said mortgage, as the Attorney General shall advise; and the said several persons shall on such payment respectively execute such releases or other matters for securing the said Thomas Hunt, his heirs and assigns against the said mortgage, as the Attorney General shall deem requisite.

And the Treasu-
rer to pay to said
persons their re-
spective parts of
said monies.

Attorney Gene-
ral to agree with
John Young, &c.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Attorney-General to agree, as he shall deem equitable, with John Young, of the city of New-York, saddler, touching the proportion to be paid by the State, of the sum of *one thousand pounds*, the amount of the monies paid by the said John Young, to the executors of Elias Desbroses, deceased, in full payment of the principal and interest

interest due on a certain mortgage of lands in the county of Dutchess, from John Kane, attainted of adhering to the enemies of this State, to the said Elias Desbrosses, in his life time; bearing date the sixth day of April, in the year one thousand seven hundred and sixty-three, for securing the payment of the sum of *seven hundred pounds*, with the interest; and in consideration of which said sum of *one thousand pounds*, the executors of the said Elias Desbrosses have assigned the said mortgage to the said John Young, and of which said mortgaged premises the said John Kane, before his attainder, conveyed several parcels to different persons and among others, to the said John Young; and the residue of the said mortgaged premises have been sold by the Commissioners of Forfeitures, as forfeited by the attainder of the said John Kane. And that it shall be lawful for the Treasurer to pay to the said John Young, as the proportion of the said *one thousand pounds* to be paid by this State, such sum as the Attorney-General shall advise; and that the said John Young shall, on receiving such sum, execute such releases or other acts for securing the several persons holding parcels of the said mortgaged premises by title derived from the State, against the said mortgage, as the Attorney-General shall deem requisite.

And Treasurer to pay said proportion to the said John Young.

And whereas it appears that William M'Adam, one of the persons named in the act entitled "An act for the forfeiture and sale of the estates of persons who have adhered to the enemies of this State, and for declaring the sovereignty of the people of this State, in respect to all property within the same," passed the twenty-second day of October, in the year one thousand seven hundred and seventy-nine, and intended to be thereby attainted, died before the passing of the said act, so that no forfeiture accrued to the State by such intended attainder: *Therefore,*

Reciting that William M'Adam one of the persons named in the bill of attainder died before the passing of said bill.

XXIV. *Be it further enacted by the authority aforesaid,* That all sales of land, by the Commissioners of Forfeitures as deemed forfeited by the attainder of the said William M'Adam, shall be and hereby are declared to be void; and the several vendees, their heirs and assigns, shall be deemed as evicted, for want of title in the State, and they shall accordingly be severally entitled to the benefit of the provisions contained in the fourteenth section of the act further to amend an act entitled "An act for the more speedy sales of the confiscated and forfeited estates within this State, and for other purposes therein mentioned," passed first day of May in the year one thousand seven hundred and eighty-six: That it shall be lawful for the Attorney-General to enquire respecting the title of the State to certain lands in Queen's county, conveyed to Charles M'Knight, by the Commissioners of Forfeitures, as forfeited by the attainder of George D. Ludlow, and if on such enquiry it shall appear probable that the people of the State have no title to the said lands, he shall give the said Charles M'Knight a certificate thereof, and the said Charles M'Knight shall thereupon be entitled to the benefit of the provisions in the said fourteenth section of the said act, passed the first day of May, in the year one thousand seven hundred and eighty-six.

All sales of his lands in consequence of said attainder declared void, and the vendees entitled to certain provisions.

XXV. *And be it further enacted by the authority aforesaid,* That the Trustees in whom the estate of Benjamin Close, late of Westchester county, deceased, is vested by an act entitled "An act for the relief of Theodosius Fowler and others," shall be and hereby are inhibited from proceeding to the sale of the said estate, until the further order of the Legislature.

Attorney-General to inquire into the title of the State, to certain forfeited lands in Queen's county, conveyed to Charles M'Knight, and in case of want of such title said M'Knight entitled to certain provisions.

Trustees of the estate of Benjamin Close, not to proceed to the sale of said estate.

XXVI. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Commissioners of Forfeitures for the Middle District, as soon as conveniently may be, after the passing of this act, and on a previous notice, to be published for six weeks successively in two of the public news-papers within this State, to sell at public vendue all the real estate within the town of Poughkeepsie in the county of Dutchess, deemed forfeited by the attainder of Bartholomew Crannel, and after retaining thereout to his own use, the sum of *ten pounds*, as a commission for his services and expences, to pay the residue of the monies arising by such sales to Gilbert Livingston and Peter Tappen of Poughkeepsie aforesaid, in trust, to be applied by them in discharging whatever mortgages or other incumbrances may be on the said premises, and in reimbursing themselves the amount of such monies as they or either of them may have expended in buildings or repairs on the said premises; and with respect to such of

Commissioners of forfeitures for the middle district to sell all the real estate forfeited by the attainder of Bartholomew Crannel, and to put the monies arising therefrom into the hands of Gilbert Livingston and Peter Tappen, as Trustees for certain purposes.

the said monies arising by such sales as shall then remain, and with respect to such monies as they the said Gilbert Livingston and Peter Tappen, or either of them, shall at any time, before such sale have received as the rents of the said premises, they the said Gilbert Livingston and Peter Tappen shall be deemed to be in the nature of executors, trustees for the creditors of the said Bartholemew Crannell; and if after payment of the whole of the debts owing from the said Bartholemew Crannell, there shall remain an overplus of such trust money, they the said Gilbert Livingston and Peter Tappen shall as to such overplus be deemed trustees for the benefit of Catharine the wife of the said Gilbert Livingston, and Elizabeth the wife of the said Peter Tappen (which said Catharine and Elizabeth are such of the children of the said Bartholemew Crannell, who have manifested an attachment to the freedom and independence of the United States of America) in equal shares; that on such sales, monies only and consisting in gold or silver, or bills of credit, shall be received in payment, and the conveyances from the Commissioner shall not be deemed to operate as warranties from the State, and the Commissioner shall accordingly insert in the conveyances immediately before the words, "In witness," the words, "these presents however are in no wise to operate as a warranty," and instead of a warranty from the State, the respective vendees, their heirs and assigns, shall have remedy against the said Gilbert Livingston and Peter Tappen, their executors and administrators, for compelling the performance of the trust herein before specified, for applying the monies arising by the sales of the said premises, in discharging whatever mortgages or other incumbrances may be on the same.

Reciting that persons improperly taxed in the city of New-York have not had the relief by law intended them.

And whereas it is represented to the Legislature, that the persons improperly taxed in the city and county of New-York, and intended to be relieved by the act, entitled, "An act for the more effectual collection of the arrears of the tax therein mentioned, and for the relief of persons improperly taxed in the city and county of New-York, and for other purposes," have not yet been relieved, and the time limited in the same act is expired: *Therefore,*

Act for giving such relief revived, and the Mayor Recorder, &c. to exercise the powers therein given.

XXVII. *Be it further enacted by the authority aforesaid,* That the said recited act be, and the same hereby is revived and continued in force until the first day of January next. *And further,* That the Mayor, Recorder and Aldermen of the city of New-York for the time being, or the major part of them (of whom the Mayor or Recorder of the same city always to be one) shall and they are hereby required to execute the powers and duties vested in and required from them, in and by the said recited act, within the time above prescribed.

Estate of Waldron Blaw deceased, forfeited by his attainder, and not yet sold, vested in his widow and children.

XXVIII. *And be it further enacted by the authority aforesaid,* That all the real estate, late of Waldron Blaw, deceased, forfeited to and vested in the people of the State of New-York by his conviction, situated in the city of New-York, and remaining unsold, shall be and hereby is vested in Eleoner Blaw his widow, for and during her natural life, and from and after her death the same shall remain to the children of the said Eleoner Blaw by her said late husband, equally to be divided between them, and to their heirs and assigns forever, as tenants in common. *And further,* That it shall be lawful for the said Eleoner Blaw, in her own name, to demand, sue for, recover and receive to her own use all such debts as were due to the said Waldron Blaw, at the time of the said conviction, and which yet remain unpaid.

A certain part of Montgomery County erected into a Town, by the name of Chemung, with the same privileges as other Towns.

XXIX. *And be it further enacted by the authority aforesaid,* That all that part of the county of Montgomery, beginning at the intersection of the partition line between this State and the Commonwealth of Massachusetts, and the Pennsylvania line, and running from the said point of intersection due north, along the said partition line to the distance of two miles, north of the Tioga-River; thence with a straight line to the Oswego-River, to intersect the said river at the distance of four miles on a straight line, from the confluence thereof with the Susquehannah; thence down the Oswego and Susquehannah to the Pennsylvania line, and thence along the same to the place of beginning, shall be and hereby is erected into a town, by the name of Chemung. *And further,* That the freeholders and inhabitants of the said town, shall be and hereby are empowered to hold town-meetings and elect such town officers as the freeholders

ders and inhabitants of any district or town in the said county of Montgomery may do by law: And that the freeholders and inhabitants of the said town, and the town officers by them to be elected, shall have the like powers and privileges as the freeholders, inhabitants and town-officers of any other town in the said county are or shall be entitled to; and that the first town-meeting shall be held at such time and place as James Clinton, John Cantine and John Hathorn, or any two of them shall, by writing under their hands, direct and appoint.

First town-meeting when and how to be held.

And whereas it is represented to the Legislature, that divers persons have been guilty of raising wiers and other obstructions in the Susquehannah river within this State, whereby the navigation thereof has been rendered dangerous, and the free course of the fish up the same river impeded and diverted: For remedy whereof,

Recital.

XXX. Be it further enacted by the authority aforesaid, That if any person or persons shall raise, erect or build, or cause to be raised, erected or built any such wier or other obstruction whatsoever in the same river, in any part of this State, he or they shall respectively forfeit the sum of five pounds for each offence, to be recovered with costs of suit, before any court, having cognizance thereof, by any person or persons who will sue for the same,

A penalty of 5l. inflicted for raising any more obstructions in the Susquehannah River.

XXXI. And be it further enacted by the authority aforesaid, That the exemption to such persons as have formerly served as officers in the army or militia, by the act entitled, "An act to regulate the militia," or the amendment to the said act, shall not be understood to extend to any such persons then being officers, who have gone over to and joined the enemy in the late war.

Exemptions from militia duty not to extend to persons who joined the enemy in the late war.

XXXII. And be it further enacted by the authority aforesaid, That it shall be lawful for the Treasurer of this State, and he is hereby directed to pay the several sums of money following, viz:

Treasurer to pay the following sums of money, viz.

To Peter Schuyler the sum of thirty pounds, as a compensation for his expences and services, as Commissioner of Indian Affairs.

To Peter Schuyler, 30l.

To Abraham Cuyler, the sum of five pounds and seven shillings, for victualling and lodging seven Oneida Indians.

To Abraham Cuyler, 5l. 7s.

To Donald Campbell, the sum of eight hundred pounds, out of any monies he may have in the treasury, after the first day of April next, on account of the United States, and charge the same to them, agreeable to the act of Congress of the 11th of October last.

To Donald Campbell, 800l.

To David Younglove, a wounded soldier, the sum of eight pounds.

To David Younglove, 8l.

To His Excellency the Governor the sum of one hundred and fifty pounds, to procure materials for putting in order several pieces of artillery: He to be accountable for the expenditure of the said sum.

To His Excellency the Governor 150l.

XXXIII. And be it further enacted by the authority aforesaid, That it shall be lawful for the Commissioners of the Land-Office, to direct letters-patent, to be issued to John Thurman, for the twelfth township in that tract of country, called and known by the name of Jessups-Purchase, for such price per acre as they may judge proper, payable in any of the certificates issued or to be issued by Gerard Bancker, Treasurer of this State.

Letters-Patent to be issued to John Thurman for township No. 12 in Jessups-Purchase.

XXXIV. And be it further enacted by the authority aforesaid, That the Treasurer of this State, shall pay unto each of the agents employed on the part of this State, to assist in ascertaining and running the line of jurisdiction between this State and the Commonwealth of Massachusetts, at and after the rate of forty shillings per day, for every day they have respectively been employed in the said service, over and above their expences, to be ascertained and certified to the said Treasurer by the Auditor of this State. Provided, That the salary of the Surveyor-General shall, for the time such allowance is made, be deducted from such allowance.

Treasurer to pay the agents for running the line between this State and Massachusetts.

XXXV. And be it further enacted by the authority aforesaid, That the Treasurer of this State, as one of the agents employed on the part of this State, in ascertaining and running the line of jurisdiction between this State and the Commonwealth of Massachusetts retain in his hands the sum of two hundred pounds, to be applied to the discharge of the accounts of the said agents in the said business, they to be accountable for the same.

Treasurer as one of said agents to retain 200l. to discharge the accounts of said agents.

And

Recital.

Lands of George Croghan seized and sold by the sheriff of Tryon county.

And executed conveyances for said lands, and delivered them as escrows.

The said monies have never yet been paid by reason that the purchasers were attainted.

Surveyor-General to sell said lands, &c.

Proviso.

Further proviso.

Further proviso.

Surveyor-General to cause said writ of venditioni exponas, to be filed with the clerk of the court.

Recital.

And whereas William Peters of the city of Philadelphia, hath by his petition to the Legislature represented, that previous to the late war, he obtained a judgment in the Supreme-Court, against George Croghan, in which said writ of *venditioni exponas*, issued to the Sheriff of the then county of Tryon, on which writ was endorsed the sum of *two thousand two hundred and forty-one pounds and four pence half-penny*, as the amount of the principal, interest and costs, to be levied thereby. That by virtue of the said writ, Alexander White, Esquire, the then Sheriff of the said county, seized and sold certain lands of the said George Croghan, at which sales Thomas Jones became a purchaser, to the amount of *nine hundred and forty-two pounds four shillings*, John Claus to the amount of *sixty-six pounds, thirteen shillings and four pence*, Stephen Delancey to the amount of *seventy-five pounds*, and Richard Duncan to the amount of *two hundred and thirty-four pounds*; and the said Alexander White, on the ninth day of November, in the year one thousand seven hundred and seventy-four, executed conveyances to the said several purchasers, for the lands by them respectively purchased, and he delivered the same to James Duane, the attorney of the said Plaintiff, as escrows to take effect on the payment by the said purchasers severally, of the purchase-money from them respectively due. That the said purchasers not having paid any part of the said purchase-money, the said conveyances still remain in the hands of the said James Duane, and the plaintiff in the same suit, by reason of the troubles which soon after took place, and of the attainder of the said Thomas Jones, John Claus, Stephen De Lancey and Richard Duncan, hath been prevented from taking measures for compelling them to pay the amount of the purchase-money due from them respectively, or for effecting a payment of the monies recovered in the said suit; and therefore prayed the interposition of the Legislature in his behalf: *Therefore,*

XXXVI. *Be it further enacted by the authority aforesaid,* That it shall be lawful for the Surveyor-General, as soon as conveniently may be, after the passing of this act, to sell, in the manner directed by an act entitled "An act for the speedy sale of the confiscated and forfeited estates within this State, and for other purposes therein mentioned," passed 12th May, 1784, the lands so purchased by the said Thomas Jones, John Claus, Stephen De Lancey and Richard Duncan, and pay, of the monies arising by such sale to the amount of *one thousand three hundred and seventeen pounds seventeen shillings and four pence*, being the whole amount of the purchase-money so due as aforesaid, with lawful interest for the same, from the said ninth day of November, in the year one thousand seven hundred and seventy-four, to the judgment creditors of the said George Croghan, or their assigns, according to the priority of their respective judgments remaining unsatisfied; and to pay the overplus of the said monies, if any there shall be, into the treasury of this State: *Provided,* That such payment shall not be made to the said Creditors, until he the said William Peters shall have delivered to the Commissioners the said conveyances from the said Alexander White, duly proved or acknowledged, and also the said writ of *venditioni exponas*: *And provided further,* That monies only consisting in gold or silver, or bills of credit of this State, shall be received by the Commissioners in payment on the said sales: *And provided further,* That the conveyances from the Commissioners in this case, shall not be deemed to operate as warranties from the State; and the Commissioners shall accordingly insert in the conveyances the words "These presents, however, are in no wise to operate as a warranty," immediately before the words "In witness."

XXXVII. *And be it further enacted by the authority aforesaid,* That the said Surveyor-General shall cause the said writ of *venditioni exponas* to be filed in the office of the Clerk of the Supreme Court of this State, and the Clerk of the said Court is hereby required to receive and file the same writ accordingly; and the Surveyor-General shall cause the said conveyances from the said Alexander White, to be recorded in the office of the Clerk of the county of Montgomery, the expence thereof to be defrayed out of the monies to arise by the said sales, to be made by the Commissioners as aforesaid.

And whereas that part of the county of Albany, heretofore the townships of Schoharie, and Duaneburgh, is now united into one town, which from its extent is inconvenient to the inhabitants: *Therefore,*

XXXVIII. *Be*

XXXVIII. *Be it further enacted by the authority aforesaid,* That from and after the first day of April, in the year of our Lord one thousand seven hundred and eighty-nine, the said township of Duaneburgh, bounded on the north by the county of Montgomery, on the west by Schoharie river, and the Schoharie patent, on the south by the north bounds of lands granted to Johannis Lawyer and others, and the south bounds of lands granted to Captain Jonathan Brewer, and the manor of Rensselaerwyck, and on the east by the west bounds of lands belonging to the Dutch Church of Schenectady, and the west bounds of the settlement called Corry's Brook, shall continue and be a town, by the name of Duaneburgh, with all the rights, privileges and immunities which are granted to other towns within this State, by an act of the Legislature passed in this present session, entitled "An act for dividing the counties of this State into towns," and that the first town-meeting of the inhabitants of the said town, shall be held at the dwelling-house now occupied by Nicholas Reghter, in the said town, on the first Tuesday in April, in the year aforesaid.

Duaneburgh described.

And whereas it appears to the Legislature, that Ananias Cooper, Martin Vosburgh, Thomas Lewis, John Van Benthuyfen, and Anthony Hoffman, were entitled to a tract of land, being part of a larger tract granted by letters patent to Joseph Totten and Stephen Crossfield, commonly known by the name of Jessup's Purchase, and by the events of the late war, the several deeds, vouchers and papers respecting their title to the said lands, had been carried off, and could not afterwards be obtained, before the time limited for them to produce such claims was expired. *Therefore, to afford relief in the premises,*

Reciting that Ananias Cooper and others were entitled to a tract of land in Totten and Crossfield's purchase, &c.

XXXIX. *Be it further enacted by the authority aforesaid,* That the Commissioners of the Land-Office are hereby authorized and directed, to examine into the claims and pretensions of Anthony Hoffman, Martin Vosburgh and others, relative to a township of twenty-four thousand acres of land within the limits of the purchase, commonly called Jessup's-Purchase: And if upon such examination it should appear to the Commissioners, to be a just and equitable claim, to order and direct so much of the unappropriated lands within the said purchase or next adjacent thereto, within this State, to be granted to the said Anthony Hoffman and his associates, as they shall deem just and equitable, upon such terms and conditions as lands upon similar claims have been granted: And the like provision is hereby made in favor of Roger Southerland.

Commissioners of the Land Office to enquire into their claims, &c.

And whereas Joshua T. D. St. Croix, did on the seventh day of June, in the year one thousand seven hundred and seventy-six, execute a bond to Thomas Pearfall of the city of New-York, for six hundred pounds, actually paid to the said Joshua T. D. St. Croix, who afterwards on the fourth day of February in the year one thousand seven hundred and seventy-nine, conveyed to the said Thomas Pearfall, a certain tract of land laying within this State, for the securing of the said debt, which said tract of land became forfeited to the people of this State, by the conviction of the said Joshua T. D. St. Croix. *And whereas* the said conveyance was prior to the act, entitled, "An act for the forfeiture and sale of the estates of persons who have adhered to the enemies of this State, and for declaring the sovereignty of the people of this State in respect to all property within the same," passed the twenty-second day of October in the year one thousand seven hundred and seventy-nine, it is therefore proper that relief should be given to the said Thomas Pearfall, as a bona fide purchaser of the said estate, and without any intention on his part to defraud the people of this State. *Therefore,*

Reciting that J. St. Croix, an attainted person conveyed a tract of land to T. Pearfall, &c.

Said conveyance being prior to the attainder, relief ought to be given to said Pearfall.

XL. *Be it further enacted by the authority aforesaid,* That the provision contained in forty-second section of the act, entitled, "An act for the speedy sale of the confiscated and forfeited estates within this State, and for other purposes therein mentioned," passed the twelfth day of May in the year one thousand seven hundred and eighty-four, shall be, and hereby is declared to extend to the said Thomas Pearfall; and that his claim on the estate forfeited to the people of this State, by the conviction of the said Joshua T. D. St. Croix, shall and may be adjusted and paid in like manner as the claims of other persons are directed to be adjusted and paid, by the said section; any thing in either of the herein before recited acts to the contrary notwithstanding.

Relief given.

XLI. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Auditor to examine the claims of persons against the State, for pay or compensation

Auditor to examine claims of proprietors of vessels, teams, &c. impressed.

sation for the hire of vessels, teams, or for provisions or other matters hired, taken or impressed by Egbert Dumond, Daniel Graham, Moses Cantine, or by any person or persons authorised by his Excellency the Governor, to hire vessels, make impresses, taking provisions or other matters; and to report a state of such claims to the Legislature, at their next meeting.

Auditor to audit and settle the accounts of J. Duane, as a Delegate in Congress.

XLII. *And be it further enacted by the authority aforesaid,* That the Auditor of this State be, and he hereby is directed and authorised to audit and settle the accounts of James Duane, for his expences as a delegate of this State, in the Congress of the United States, in the years one thousand seven hundred and seventy-seven, and one thousand seven hundred and seventy-eight, on the same principles as the salaries of the Chancellor and Treasurer are directed to be settled, by the second section of an act, entitled, "An act for the payment of the salaries of the several officers of government and of certain contingent expences, and for other purposes therein mentioned," passed the twelfth day of May, in the year of one thousand seven hundred and eighty-four; taking as a ratio on such settlement *thirty-four shillings* specie, as the expence of a day, for the maintenance of a delegate, his servant and two horses, while employed on that duty; and estimating the Continental money by the scale of depreciation of Pennsylvania where it was expended.

Reciting that the bounds of S. Waterhouse's land, in Skeen's little patent, are erroneously described.

And whereas Samuel Waterhouse, on the twenty-fourth day of September, in the year one thousand seven hundred and eighty-one, purchased of John Lansing and Christopher Yates, Esquires, as commissioners for procuring a sum in specie, &c. three thousand five hundred and thirty-two acres of land in Skeen's Little-Patent, the boundaries of which land are erroneously described: And the said Samuel Waterhouse having prayed that the mistake may be rectified: *Therefore,*

Commissioners inhibited from selling remainder of said patent.

XLIII. *Be it further enacted by the authority aforesaid,* That the Commissioner of the Eastern District, and the Surveyor-General, be inhibited from selling such part of the patent, called Skeen's Little Patent, lying north and east of Mackintosh's patent, until after the rising of the Legislature, at their next meeting.

Reciting that the members of the Legislature, during the war received orders to be paid in wheat.

And whereas, during the late war the members of the Legislature received orders from Udney Hay, then State Agent, to be paid in wheat for their services as members of the Legislature; and *whereas* some of the said orders remain unpaid: *Therefore,*

Treasurer to discharge said orders in money.

XLIV. *Be it further enacted by the authority aforesaid,* That the Treasurer of the State shall and he is hereby authorised to discharge such orders so unpaid at and after the rate of *eight shillings* for every bushel of wheat, mentioned in such order.

Treasurer to pay Gov. 300l.

XLV. *And be it further enacted by the authority aforesaid,* That the Treasurer of this State shall pay to His Excellency the Governor, the sum of *three hundred pounds*, in full for the rent of the house he now lives in, together with the amount of the taxes paid on the same, from the first day of May last, to the thirtieth day of April next inclusive.

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END OF THE LAWS OF THE ELEVENTH SESSION.



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